FIRST

REPORT

FROM THE

SELECT COMMITTEE

ON

INDIAN TERRITORIES;

TOGETHER WITH THE

MINUTES OF EVIDENCE,

AND APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
2 *May* 1853.

Lunæ, 15° *die Novembris*, 1852.

Ordered, That a Select Committee be appointed to inquire into the Operation of the Act 3 & 4 Will. 4, c. 85, for effecting an Arrangement with the East India Company, and for the better Government of Her Majesty's Indian Territories till the 30th day of April 1854.

Martis, 16° *die Novembris*, 1852.

Committee nominated of—

Mr. Herries.
Mr. Chancellor of the Exchequer.
Lord John Russell.
Mr. Baring.
Sir Charles Wood.
Mr. Baillie.
Mr. Gladstone.
Mr. Newdegate.
Mr. Labouchere.
Sir James Graham.
Mr. Alderman Thompson.
Sir William Molesworth.
Sir Robert Harry Inglis.
Viscount Jocelyn.
Mr. Cobden.
Mr. Hardinge.
Mr. Milner Gibson.
Mr. Mangles.
Sir James Hogg.
Mr. Hume.
Mr. Bankes.
Mr. Vernon Smith.
Mr. Robert Hildyard.
Mr. James Wilson.
Mr. Spooner.
Mr. Keogh.
Mr. Macaulay.
Lord Stanley.
Mr. Robert Clive.
Mr. Edward Ellice.
Viscount Palmerston.

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Ordered, That Five be the Quorum of the said Committee.

Veneris, 18° *die Februarii*, 1853.

Ordered, That Mr. Wilson be discharged from further attendance on the Committee, and that Lord John Russell, Sir Charles Wood, Sir George Grey, Sir Thomas Maddock, Mr. Chichester Fortescue, Mr. Cardwell, Mr. John Elliot, and Mr. Lowe be added thereto.

Martis, 22° *die Februarii*, 1853.

Ordered, That Mr. Chichester Fortescue be discharged from further attendance on the Committee, and that Mr. John Fitzgerald be added thereto.

Jovis, 28° *die Aprilis*, 1853.

Ordered, That the Committee have power to Report the Minutes of Evidence taken before them, from time to time, to The House.

Lunæ, 2° *die Maii*, 1853.

Ordered, That the Report of the Select Committee on Indian Territories of last Session, and copy of the Report of the Select Committee of the House of Lords on the same subject (communicated 1st December) be referred to the Committee.

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FIRST REPORT.

THE SELECT COMMITTEE appointed to inquire into the Operation of the Act 3 & 4 Will. 4, c. 85, for effecting an Arrangement with the EAST INDIA COMPANY, and for the better Government of Her Majesty's INDIAN TERRITORIES till the 30th day of April 1854, and to whom several Petitions, and the Report of the Committee on Indian Territories of last Session, and also the Report of the Committee of the House of Lords, were referred, and who were empowered to Report the MINUTES OF EVIDENCE taken before them, from time to time, to The House:

HAVE made progress in the Matters to them referred, and have agreed to Report the Minutes of Evidence taken before them.

2 *May* 1853.

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MINUTES OF EVIDENCE.

Martis, 14° *die Decembris*, 1852.

MEMBERS PRESENT.

Sir R. H. Inglis.	Mr. Hardinge.
Mr. Herries.	Mr. Spooner.
Lord Stanley.	Mr. E. Ellice.
Mr. Bankes.	Mr. Baillie.
Mr. R. Hildyard.	Mr. Keogh.
Mr. Mangles.	Mr. R. H. Clive.
Mr. Vernon Smith.	Sir James Hogg.

Sir ROBERT HARRY INGLIS, Bart., in the Chair.

Philip Melvill, Esq., called in; and Examined.

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1. *Chairman.*] WHAT office do you hold in the East India House?—That of Secretary in the Military Department.

2. How long have you held that office?—Fifteen years.

3. Were you in that department before you became secretary?—From the earliest period of my appointment, 40 years ago, I have been in that department.

4. What is the aggregate strength of the army of India?—The aggregate strength of the army in India, in the year 1851, was 289,529.

5. What is the aggregate cost of the army annually?—According to the last return, it is something short of 10,000,000*l.*

6. Over how many square miles is that army distributed?—The territorial extent of India, including the Tenasserim Provinces and Aracan, is about 1,300,000 square miles.

7. What is the population which that army is designed to protect?—The population is computed at 150,000,000.

8. Of that population how many are Mussulmen and how many are Hindoos?—I am not prepared with a statement of the proportions.

9. Can you furnish the Committee with an approximate statement?—I am not prepared to make any statement on that subject.

10. Of the aggregate strength of the army in India, what are the component parts, to begin with the Queen's forces?—The Queen's forces comprise 24 regiments of infantry and five of dragoons, the aggregate of which is 29,480.

11. What is the strength of the Company's European infantry?—It consists of six regiments, the aggregate strength of which is 6,266.

12. What is the strength of the Company's regular native infantry?—Of the regular native infantry the aggregate is 157,711.

13. Of the Company's irregular infantry what is the aggregate?—39,613.

14. What is the strength of the regular native cavalry of the East India Company?—It amounts to 10,186.

15. What does the irregular native cavalry amount to?—To 21,134.

16. What is the number of regiments of the regular native infantry and of the irregular native infantry?—The number of regiments in the regular native infantry is 155, and in the irregular native infantry 53.

17. In the regular native cavalry how many regiments are there?—There are 21 regiments.

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18. What is the number of regiments in the irregular native cavalry?—There are 34 corps.

19. What is the force of the artillery?—It amounts in the aggregate to 16,440, divided amongst the European horse and the European foot, and native foot or Golundauze.

20. What is the number of sappers and miners?—The aggregate of the sappers and miners is 2,569.

21. What is the number of European officers?—The number on the established strength is 5,142.

22. Is there any other class into which the strength of the army of India is divided?—There are, in addition to those which I have enumerated, veterans or native invalids amounting to 4,124. There are, besides, the medical establishment, aggregating 1,763, and the European warrant officers, viz. 243.

23. Does the aggregate of these 11 classes represent the figures which you gave in the first instance, as composing the army in India, namely, 289,529?—Yes, it does, except that the European officers serving in India are included in the aggregate of the several branches of the service to which they belong.

24. Can you state to the Committee, of this aggregate force how many are Mussulmen, and how many are Hindoos, and how many are Indo-Europeans?—The proportion of the Mahomedans to the Hindoos is about 1 to 4.

25. Does that apply to the whole force, or to particular sections of it?—It applies only to the aggregate force; portions of the force have a far larger proportion of Mahomedans to Hindoos.

26. Which are those?—The native cavalry of Madras in particular, and the corps of irregular horse in Bengal, also the native cavalry of Bengal.

27. You have already stated to the Committee into how many regiments this aggregate force is divided, as far as relates to the native regiments; will you favour the Committee with the same information as regards the European regiments in the service of the East India Company?—In the service of the East India Company there are two regiments at each Presidency.

28. Have they the same, or a larger complement of officers?—In comparison with the native troops they have double the proportion of European officers.

29. You have not stated the number of regiments or corps of artillery; how many corps or battalions of artillery are there?—There are five brigades of horse artillery, 12 battalions of European foot artillery, and six battalions of native foot artillery.

30. What was the aggregate force in 1834, being the period from which the inquiries of the present Committee are understood to be instituted?—In the year 1835 the strength of the army in India was 183,760; as compared with that year the increase in 1851 is 105,760. But I should state, that in the year 1834–5 the army had been reduced to a lower ebb than at any time during the preceding 26 years; namely, since 1808. This was consequent upon the enormous reduction which after the close of the Burmese war was made on financial grounds, amounting to 108,000 men as compared with the number in the year 1826. The greatest strength at any time during the Burmese war was 291,000 men. The strength is now somewhat less than that; viz., 289,529.

31. Was 291,000 the largest number of which the army in India was ever composed?—It was the largest, except in the year 1847, when the number was 291,796.

32. And the number was the smallest in the year in which the reduction to the extent of 108,000, at the close of the Burmese war, was made?—The year 1835, in which the number was less by 108,000 than the year 1826, was that in which the strength of the army was on its lowest scale during the time referred to.

33. Will you be pleased to state how the aggregate was formed in 1834, taking the same classes as you have already taken with reference to the army in India in 1852?—To begin with the Queen's forces, there were at that time 20 regiments of infantry and four of dragoons, aggregating 17,679. Of European infantry in the Company's service, there were three regiments, with a force of 2,111. Of regular native infantry, 152 regiments, with a force of 115,989; and of irregular infantry, there were 13 corps, with a force of 10,376.

34. Do you wish the Committee to understand by corps that you mean, with reference to that particular force, the same description of organization which you have characterized as regiments in regard to the other portion of the force?—With this difference, that the regular regiments have an organized establishmen

ment of European officers, whilst the irregulars have European officers detached from the regulars.

35. With respect to the regular native cavalry, what was the force in 1834–5?—There was the same number of regiments as there is now, 21, with a force of 10,779. The irregular native cavalry consisted of seven corps, and the strength was 4,545. The aggregate of the artillery force was 14,544, divided amongst 5 brigades of horse, 10 battalions European foot, and 4 battalions of native foot.

36. You have already stated to the Committee the number of square miles over which the army of India is distributed in the year 1852; can you state to us the number of square miles over which it was distributed in 1834–5?—The number of square miles of the Punjaub, I believe, is 80,000. If you deduct that from the aggregate of 1,300,000, you arrive at the result desired.

37. There is also Scinde?—Scinde is to be deducted also, having an area of about 50,000 square miles. Tenasserim was added in 1826.

38. Can you state to the Committee, as you stated with reference to an earlier question, the population which the existing army is designed to protect, what was the population among whom the army was distributed in 1834–5?—The additions since made amount to not more than 8 or 10,000,000.

39. In other words, you would wish the Committee to understand that the army of 1834–5 had to protect a population of 140,000,000, and was spread over an area consisting of about 1,200,000 square miles?—Just so.

40. Such being the aggregate force at the different periods respectively, and the areas over which that force was distributed at those periods, will you state to the Committee generally the cause of the increase which has been made?—The great causes of the increase have been the annexation of the Punjaub, and of Scinde.

41. When were those successive additions made?—The first addition to which I may call your attention, has been that of three European regiments, one to each Presidency, raised during the progress of the Affghan war at the earnest solicitation of Lord Auckland, who considered that the strength in European infantry was inadequate. Since that time the number of Queen's regiments has, on the requisition of the Court of Directors, been several times augmented to meet the emergencies of the service, and the additional regiments sent out on those requisitions have been withdrawn when the emergency has ceased, except as regards those sent on the outbreak in the Punjaub; of those, five were sent, and four remain as a permanent addition consequent upon the annexation of the Punjaub. I should state that the additional regiment of dragoons which was sent on the requisition of the Court of Directors, is to be withdrawn, the Governor-general considering that its services are no longer required.

42. You have spoken of the increase in the number of European regiments during the Affghan war; will you state what has been the increase of the artillery?—The number of batteries, horse and field, has been increased by one horse and 11 field batteries, being an increase in the number of field guns from 312 to 384 for the whole of India; and the strength of the corps of artillery has been raised from 14,544 to 16,440.

43. Can you state to the Committee what has been the increase of the native infantry in Bengal?—To the native infantry of Bengal there has not been the addition of a single regiment, nor to the infantry of Madras; but the native infantry of Bombay were increased in the year 1846 by an addition of three regiments.

44. Has there been any increase in the regular native cavalry?—No.

45. Has there been an increase in the irregular native cavalry?—The irregular native cavalry have undergone an increase of 18 regiments to the Bengal, and five to the Bombay army; 23 altogether. Of these 14 were raised in consequence of the Sikh wars, and of the annexation of the Punjaub and Scinde, and three were raised for police purposes at Bombay. Of the remaining six I will read a list, namely, the 6th Irregular Horse raised as a portion of the Oude auxiliary force under the treaty with the King of Oude, concluded in the year 1837. The 7th Irregular Horse in place of the 2d Regiment of Light Cavalry, which was disbanded in the year 1841. The 8th Irregular Horse, raised from Shah Shoojah's horse at the time of the Caubul disaster. The 9th Horse, raised in 1844, for service in Scinde; the 10th and 11th Irregular Horse,

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raised for civil duties in the Saugur and Bundelkund districts. The aggregate force of irregular cavalry is now 21,134, being an increase of 16,589.

46. Will you be pleased to state, for the information of the Committee, what is the right understanding of the term "irregular," as applied either to cavalry or to infantry?—The term is applied in consequence of those corps not being furnished with a regular establishment of officers. That is the main distinction. In the irregular cavalry each trooper provides and feeds his own horse: he also provides his own equipment and arms, and the Government give him an allowance for all these objects; whereas in the regular service the Government equips the trooper with his horse, arms and clothing, and gives him pay and batta for his subsistence.

47. Are you able to state to the Committee what the amount is of allowance made by the Government?—The allowance made by the Government for each irregular trooper in Bengal is 20 rupees a month, out of which all the objects that I have mentioned are provided by him.

48. Can you state to the Committee what is the pay of a trooper in the regular cavalry?—The pay of a regular trooper is nine rupees a month.

49. The difference of 11 rupees provides the irregular trooper with his horse and his arms?—Yes.

50. What is the difference in the infantry between those of the regular and irregular force as to pay?—A rupee and a half a month is the difference, that being the rate of half batta which the regular native infantry receive at all times. This is only allowed to the local infantry when on service or escort duty. An exception has been made in favour of the Ghoorka and some other corps, who have the same batta as the regular infantry; but the irregular and the regular infantry soldier are on the same arrangements as regards their equipment.

51. In the terms of enlistment is there any difference between the troops in the three Presidencies?—There is no difference in the actual terms of enlistment, but there is a material difference in the understanding upon which the men enlist. In Bengal, except for the general service regiments, men enlist upon the understanding that they are not to be sent by sea for service in foreign parts; but the sepoys of the Madras and Bombay armies enlist upon the understanding that they will go wherever they are sent. At the same time, it is the practice at Madras to apprise the sepoys of a regiment ordered on foreign service, that if any are unwilling to follow their colours their places will be supplied by volunteers.

52. Has the understanding to which you have called the attention of the Committee with regard to enlistment had its origin in any deference to religious feelings or opinions?—No doubt it had its origin in that cause.

53. The castes of Bengal have a special repugnance to leaving their native soil, and to moving by sea?—They have.

54. Is the pay of the analogous services of cavalry, infantry, and artillery the same in the three Presidencies?—Under the arrangement which was brought into operation in the year 1837, and which is now very nearly carried out, the allowances, pensions and pay are the same.

55. How is the European army in India recruited?—It is recruited almost entirely in England.

56. What is the proportion required to be renewed annually?—It was computed some years ago that the decrement of life arising from deaths, invalidings, discharges, and from men being promoted to staff appointments, was 12 per cent. per annum. It is now, on the average of the whole of India, about 10 per cent. per annum; so that it requires 10 men for every 100 to keep up the establishment.

57. How is the native army in India recruited?—It is recruited principally in the Presidency in which it serves; the Bengal army chiefly from Oude; the Madras army from the Madras territories; and the Bombay army in the proportion of about one half from the Bombay territories. The remainder are Hindostanees from the Upper Provinces of Bengal.

58. With the exception of the repugnance which you have described as existing on the part of the soldiers in the Bengal Presidency, are all the enlistments for unlimited service?—Yes; no period is mentioned in the attestations.

59. Has there been since 1835 any repugnance manifested by any of the force in either of the other Presidencies to go upon foreign service?—There has

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has been no repugnance manifested by the Madras or Bombay armies to embark on that account, but there have been difficulties arising at Madras out of their misunderstanding the terms on which they embarked. When those misunderstandings were removed, all further difficulties ceased.

60. Then the Committee are to understand that, as far as your knowledge of the army of India extends, there has not at any time since 1834–5 been any repugnance on the part of the troops to march wherever the Company ordered them?—Certainly not, except as regards some corps of the Bengal army ordered to Scinde.

61. Can the forces of one Presidency be removed to another Presidency?—They can be, and are at this moment, removed out of one Presidency into another, under the orders of the Governor-general in Council, acting in concert with the local governments.

62. Can officers be removed from a regiment in one Presidency to another regiment in another Presidency?—Not to another regiment; but they may be removed to another Presidency for the performance of duties on the staff, or in political employments, which are open to officers of the three Presidencies.

63. Is there any gradation of rank on obtaining which an officer has greater latitude in respect of removal to another Presidency?—Not any.

64. But he may be removed for general service, or for a staff appointment, or for civil employment?—Yes.

65. That is personal?—Yes.

66. He is not removable to another regiment, but he is removable from the 15th Native Infantry in Madras or Bombay, for instance, to a staff appointment in Calcutta?—Yes, if the appointment is one open to officers of the three Presidencies, or to perform the duties of commandant or second in command of an irregular corps in Bengal or elsewhere.

67. But the three armies of the three Presidencies are kept distinct?—Yes.

68. All nevertheless being subject to the control of one Governor-general?—All under the Governors in Council of their respective Presidencies, subject to the general control of the Governor-general in Council.

69. Can you state to the Committee whether there has been, with reference to European officers, an increase of demand for their employment on the staff, including in the word "staff" also civil appointments?—The number of officers required for detached employments of all kinds in the year 1834-5 was 532; it is now 1,040, being an increase of 508 for the whole Indian army, not including officers of engineers.

70. What has been the proportionate demand for staff appointments in the different Presidencies per regiment?—The demand for Bengal, if divided among the several regiments, amounts on the average to six per regiment. At Madras to three-and-a-half, and at Bombay to five per regiment; the general average being five for each regiment.

71. When was the present system of employing officers for the staff established?—When regimental rise was established in the year 1796, and it has been in existence ever since.

72. Will you state the rule which prevents too many officers being withdrawn from regiments for staff appointments?—The rule is that not more than six officers shall be withdrawn from any one regiment, of whom not more than three shall be of the rank of captain.

73. Are the native irregular forces all officered by officers drawn from the regular army?—They are.

74. What are the rules for furloughs to Europe on private affairs, which have been introduced since 1834–5?—I am not aware of any change having been introduced since that time.

75. What are the existing rules?—After an officer has served for 10 years in India, he is entitled to furlough on private affairs for three years, during which time he receives the full pay of his rank. If he holds a staff appointment, he relinquishes it from the date of his quitting India. If he does not remain absent the whole of the three years, he is allowed the benefit of the difference in the event of his again being allowed furlough on private affairs; that is, if he has returned, say, one year before the time, he is allowed pay for that one year in a subsequent furlough on private affairs.

76. In the event of his requiring to go to Europe on private affairs before he has

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has attained the period at which it is lawful for him to do so, what is done?—The arrangement is, that if the officer satisfies the Commander-in-chief that his presence in England is urgently required, he may receive furlough for one year without pay.

77. You have given us the rules of furlough in the event of the urgency of private affairs requiring an officer to ask it; are there distinct rules in the case of officers requiring furlough on sick certificate?—When the medical authorities certify that it is absolutely necessary that an officer should proceed to Europe on account of his health, furlough is granted him for three years on that account, with the pay of his rank.

78. Are there any other rules for absence on account of health?—If the medical authorities prescribe a change to the hills, or a voyage by sea, with leave to visit the Cape, or New South Wales, or any place within Indian limits, the officer would be granted leave for a period not exceeding two years, during which he would receive pay and regimental allowances, and, if a staff officer, one half of his staff allowances.

79. How does that absence count in the event of his afterwards asking leave to go to Europe on private affairs?—It has no effect on that leave.

80. What is the average number of officers absent on furlough from the different regiments of the army in India, not including the Queen's forces?—The average number of officers now absent on furlough on private affairs is rather less than one per regiment; those on sick certificate to Europe, about two-and-a-half per regiment.

81. Three-and-a-half per regiment are absent both for business and for health?—Yes, as respects those in Europe.

82. Have any other changes been introduced affecting the comfort or position of European officers?—Several measures have been adopted with regard to European officers, which I will detail to the Committee, with their permission. There has been an important change in the system of the retirement of European officers from the service. Prior to the year 1835 officers could only retire on the pay of the rank which they had attained in their regiments, after 22 years' service in India. In that year it was resolved to introduce the principle of granting pensions for length of service irrespective of rank. The uncertainties of regimental promotion are so great that some have attained the rank of major, for instance, in 12 years, whilst others do not attain it in 30 years, and so with other ranks. With a view of lessening the effect of these disparities, a rule has been established, giving to officers the alternative of retiring on a pension graduated according to length of service, or on the pension of their rank, whichever is most advantageous to them. This regulation gives to military officers the right of retiring on the pay of captain after 20 years' service, of major after 24 years, of lieutenant-colonel after 28 years, and of colonel after 32 years' service. This change has had the effect of soothing the feelings of the officers of the army as to their prospects of retirement. They know that however unfortunate they may be in the race of regimental rise, they are guarded against loss in their pensions; at the same time it has not increased the number of retirements to any material extent; officers wait on for the next grade of advantage, and when they have attained that they wait on for "one year more."

83. Can you state to the Committee what is the number entitled to retire on full pay?—The number entitled to retire on full pay at this time is 1,098, of whom 557 can claim the advantage of pay of a superior rank.

84. Can you state to the Committee whether this privileged number has or has not increased?—Yes, it appears to be annually increasing. By a return for the year 1850 it was 461; by the last return it was 557.

85. Do you consider this an advantage or a detriment to the service?—It is a disadvantage that officers should remain in the service after they have attained an age at which their energies diminish.

86. Can you state to the Committee the average ages at which officers have an opportunity of enjoying this privilege of retiring on full pay?—During the last five years, that is, up to the time to which the accounts are made up from 1845 to 1850, the average age of officers retiring as captain was 41 years, as major 45 years, as lieutenant-colonel 48 years, and as a colonel 56 years.

87. Can you state the average length of service of those officers so retiring on full pay?—The average length of service by the officers who have retired within the last five years on captain's pay is 23 years, major's pay 25 years, lieutenant-colonel's

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colonel's 30, and colonel's 38 years. This includes absence on sickness or private affairs. Their actual service in India of course approximates nearly to the scale of retirement.

88. Can you explain to the Committee whether there be any other advantage, in addition to that which the Company provide, with regard to officers who have been in their service; for instance, Lord Clive's Fund?—Lord Clive's Fund has been superseded almost entirely as regards European officers by the grant of retired half pay, at rates which are more than those allowed by Lord Clive's Fund.

89. Will you state to the Committee the origin of Lord Clive's Fund?—It was composed of a donation presented by Lord Clive to the East India Company in the year 1770, amounting to 100,000*l*.

90. That was a gratuitous grant of Lord Clive?—Yes; it was for the purpose of forming a fund to provide for invalided officers, soldiers, and widows of the Company's army. That fund has been long since exhausted, principal and interest, and the pensions which are now payable nominally from Lord Clive's Fund are, in fact, supplied from the Company's cash.

91. The fund which had its origin in that munificent donation still retains the name, while, substantially, the money is supplied from other distinct sources?—Quite so.

92. In addition to the retiring pay which the Company give, after a certain length of service, and at certain ages, will you state whether there are any voluntary associations, like the Madras Fund, which have been employed to supply retiring pensions to different servants of the Company?—There are military funds at each of the Presidencies chiefly to provide pensions to widows and children, supported partly by the donations of the East India Company, but principally by the subscriptions of officers.

93. Are those subscriptions rateably attached to different ranks?—They are.

94. Then they are not voluntary in one sense, as affecting the interests of individual officers?—The rates have been altered from time to time by the determination of the officers, as shown by their votes.

95. But every officer in each Presidency pays a certain sum?—He does.

96. Will you specify any other advantages which have been granted by the Company to European officers during the existence of the Act of Parliament which now governs India?—I may mention an advantage as appertaining to European officers, that special pensions have been granted to the widows and orphans of those who have been killed in action, and also that officers have been allowed to make remittances through the Company's treasury for the maintenance of their children and families in Europe.

97. Instead of passing them through mercantile houses?—Yes. I may also mention that the privilege of being appointed aide-de-camp to the Queen has been granted to the Company's officers, and that 13 lieutenant-colonels have been so distinguished. This privilege is attended by promotion to the rank of colonel, so that it has the advantage of rendering officers eligible for commands sooner than they otherwise would be, a great public benefit in a seniority service.

98. Have there not been honours and distinctions given?—There has been great liberality on the part of the Commander-in-Chief and her Majesty's Government in granting special brevets and distinctions to the Company's officers. No less than 350 have been in the last 15 years granted special brevet rank for services in action, and 213 in the same time have received decorations of the Bath also for services in the field.

99. With regard to the European soldiers, will you state to the Committee the advantages which have been given to them by the Company during the period of the present government of India?—There has been great anxiety manifested by the home authorities, and also by the governments in India, to adopt all practicable measures for improving the condition of the European soldiery, and I will enumerate some of them. The management of troops and recruits, as to their diet whilst on the voyage to India, has been much improved. Instead of giving them rations of spirits, as had been the custom from time immemorial, they are now supplied with malt liquor.

100. In what proportion?—One pint a day. Spirits are strictly prohibited. This change was made in the hope that on the arrival of the soldiers in India they would not only be in better health, but would be disposed to drink malt

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liquor in preference to spirits. The experiment has been entirely successful. It is only necessary to keep the canteens fully supplied with beer at a cost within the soldier's means of purchase, to ensure the full benefit of the change in the improved health of the troops.

101. Have you any statistics with which you can favour the Committee in respect of the effect of that change upon the health of the soldiers, either in their voyage to India or during their residence in India?—I can state that the health of the troops at Madras and Bombay, at which Presidencies porter has been fully supplied for their use, has improved. In the last three years the mortality at Madras was less than 2 per cent. on the average; at Bombay it was about 3½, but in Bengal it was 5½ per cent.

102. What was the mortality in those Presidencies respectively previously to the introduction of the present system and the abandonment of the licensed use of spirits?—I have no return which will show that accurately; but I may state generally that the mortality was higher at those Presidencies than it is now.

103. You have no moral doubt of that fact, though you cannot furnish direct statistics to prove it?—I have not the least doubt of it. All the medical authorities concur in stating that, if the soldiers can be prevailed upon to use beer instead of spirits, their health and longevity will greatly improve.

104. Has any improvement been made in respect to their lodging, barracks, and bedding?—As to the care of the European soldiers in India, great improvements have been made in their barracks; those constructed of late years are on a larger scale, and with improved ventilation. The allowance of bedding has been increased.

105. Is the bedding iron?—Iron cots are now generally introduced. The schools have been rendered more efficient.

106. In regiments or in stations?—In both. Libraries have been established with regiments. Punkahs have been put up in their hospitals and barracks. Ice has been allowed for the hospitals; that is considered by the medical authorities to be a great improvement; the knapsack to the weight of 40 lbs. is now carried for them on the line of march by the Government.

107. It is not carried by men?—It is carried in hackeries, or on camels, according to the nature of the service. Plunging baths have been constructed wherever there was an adequate supply of water, and the means of daily ablution have been rendered more complete. Hill stations have been established for barracks and convalescent hospitals.

108. With respect to the chaplains; what provision has been made for the European soldiers?—The number of chaplains in India is about 130, and care is taken that one of those chaplains shall be at the head-quarters of every European regiment.

109. You have stated generally the advantages which have been granted to the European officer with reference to his allowances and pensions to his widow, and the honour which has been conferred upon him of being allowed to be an aide-de-camp, and the number of the officers who have been admitted to the Order of the Bath; will you state with respect to the warrant officers whether any corresponding advantages have been granted to them?—Warrant officers are now eligible to have commissions granted to them; that is a new feature in their position.

110. To non-commissioned officers have any advantages been granted?—To non-commissioned officers of distinguished service in action with the enemy the same reward is held out.

111. Have the native officers received any orders of distinction?—In the native army two orders of distinction have been established since the year 1835. One of them is called the Order of British India, and the other the Order of Merit. The Order of British India is for native officers of long and honourable service; it has two classes of 100 each. The first class, 100 soubahdars, with an allowance of two rupees a day each; and the second class, 100 native officers, with one rupee a day each. The Order of Merit is for soldiers of all ranks who distinguish themselves in action with the enemy. That order is composed of three classes; the first class receive full pay in addition to ordinary pay and pensio . The second class receive two-thirds, and the third class one-third of the same. For each of these orders there is an appropriate decoration.

112. Are you aware whether there has been any dissatisfaction among the native

native troops arising from any alleged interference with their religion on the part of the Government since 1834-5?—Certainly not. *P. Melvill*, Esq.

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113. Without reference to pecuniary, or any other cause of dissatisfaction, there has certainly not been since 1834-5 any dissatisfaction arising from that cause?—Certainly not.

114. Has there been dissatisfaction arising from any other cause?—There have been instances in which regiments have been dissatisfied in consequence of pecuniary claims.

115. That is with reference to allowances?—Yes.

116. The Committee understand you to say that the army of India of the three Presidencies is on one and the same footing, so far as all new recruits are concerned?—Yes.

117. But there is a portion still remaining under the old system?—Yes, a portion of about one-sixth in Madras and Bombay.

118. Taking a general view of the army of India, can you state to the Committee anything which, in your judgment, would improve its condition as to system, or its efficiency as to service?—I am not aware of any improvement of that kind which can be suggested. I am quite persuaded that any necessity for such an alteration would have been seen by the local governments and home authorities, and would have been carried out so far as financial circumstances would permit.

119. Have the offices of Captain-general and Governor-general ever been united in the same individual since the time of the Marquis of Wellesley?—They have not.

120. In the event of a difference of opinion between the Governor-general of India and the Commander-in-chief of the forces in India, is there any discretion left to the Governor-general, either by statute or by the terms of his commission, or by practice, in the exercise of which that difference of opinion might be decided?—By statute, whenever the Governor-general considers that the interests of India require that he should act upon his own individual judgment, he is empowered so to do.

121. He takes upon himself the absolute responsibility, bearing the consequences, be they what they may?—He takes upon himself the absolute responsibility, recording his reasons for having done so.

122. And that power has been conferred upon him in consequence of the necessity which differences of opinion, arising before the year 1834, clearly rendered necessary?—The power was given in the year 1793.

123. Mr. *E. Ellice*.] You stated the difference of pay per man between the regular and irregular forces, but not the difference per battalion; can you supply that information to the Committee?—I am in possession of a statement showing the cost of each description of regiments, which I can place upon the Minutes of the Committee, if they please.

124. *Chairman*.] Will you please to deliver in that statement?—I will. It is as follows:—

COMPARATIVE COST of a REGIMENT of each Arm of the Service in *India*, Queen's and Company's.

Her Majesty's Dragoons, 8 Troops: 701 Non-Commissioned and Rank and File.	Native Cavalry, 6 Troops: 500 Native Commissioned, Non-Commissioned, and Rank and File.	Brigade of Horse Artillery, consisting of 3 European and 1 Native Troops; 341 European Non-Commissioned and Rank and File, and 218 Native Commissioned, Non-Commissioned, and Rank and File, including Gun Lascars.	Battalion of European Foot Artillery, consisting of 4 Companies: 336 European Non-Commissioned and Rank and File, and 140 Native Commissioned and Rank and File; Gun Lascars.	Battalion of Native Foot Artillery, 6 Companies: 630 Native Commissioned, Non-Commissioned, and Rank and File.	Regiment of Her Majesty's Infantry, 9 Companies: 1,068 Non-Commissioned and Rank and File.	Regiment of Company's European Infantry, 10 Companies: 970 Non-Commissioned and Rank and File.	Regiment of Native Infantry, 10 Companies: 1,160 Native Commissioned, Non-Commissioned, and Rank and File.	Regiment of Irregular Cavalry, of 6 Ressalahs: 584 Native Commissioned, Non-Commissioned, and Rank and File.	Regiment of Local Infantry, of 10 Companies: 940 Native Commissioned, Non-Commissioned, and Rank and File.
£.	£.	£	£.	£.	£.	£.	£.	£.	£.
79,680	31,810	59,310	31,020	22,330	61,120	52,380	25,670	18,770	13,700

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125. Mr. *E. Ellice*.] You stated that 10 per cent. was the annual loss upon European troops which it was necessary to supply by recruits in this country; what is the annual loss with the native troops?—The loss with the native troops is about 1 ½ per cent. per annum.

126. Then the difference between the loss in the native and in the European troops is about 8 ½ per cent.?—I would beg to explain that the loss of 1 ½ per cent. in the native army is from death alone, whereas the loss of 10 per cent. in the European regiments is from various causes; from invaliding, promotion to staff appointments in India, retirement, and other causes.

127. Mr. *Hardinge*.] You have stated that the aggregate amount of the Indian army is 289,529; can you inform the Committee what is the aggregate amount of the forces in the pay of native states?—We have no means of stating that accurately; I have seen it represented to be more than equal to our own force.

128. Has not a return been called for by the Government of India, and furnished to the Government, stating the amount?—Returns were called for when Lord Hardinge was Governor-general; but with regard to that particular point, they found it impossible to obtain an accurate result; they had results to a certain extent, but they were not complete, except as regards the contingents officered by British officers; the returns of those are complete.

129. You have understood that the amount of the forces in the pay of native states equals the amount of our Indian army, if it does not exceed it?—Yes.

130. Mr. *Herries*.] What is the amount of the contingents?—Thirty-two thousand.

131. Mr. *Hardinge*.] You have stated that the irregular cavalry keep their own horses; is there not in the irregular cavalry another description of trooper who is enlisted for the purpose of riding extra horses?—The native officers have the privilege of letting out horses to the extent of five per officer; to that extent the troopers do not ride their own horses; they are the property of the native officers.

132. Are not the irregular cavalry most efficient in protecting commissariat stores and providing rear-guards, and do not they move at almost any moment without any baggage, and are they not a very efficient branch of the cavalry in India?—There is no doubt that they are highly efficient for the purposes specified.

133. Is not the expense of them about half the expense of the regular cavalry?—Yes.

134. They have fewer dooley bearers and fewer camels?—Yes.

135. Has it ever been proposed to give the regular cavalry the native saddle and the native sword?—Some years since the Government of Bengal were authorised to adopt the native sword, if approved. After careful inquiry, it was determined by that Government not to adopt the tulwar, but to reintroduce the curved sabre, which had been in use before the regulation sword of Her Majesty's service was adopted. This curved sabre is now in use in the Bengal Light Cavalry. The pattern of saddle has been changed more than once; it is now what is known as the "Hussar" saddle.

136. How many Sikh corps have been raised in the Punjaub?—In the year 1849, there were five corps of infantry raised in the Punjaub, and five of cavalry; those are the whole of the additions made in the Punjaub in the year 1849. Three light field batteries were added in 1851.

137. There were two Sikh corps attached to the regular army raised in 1846?—Yes; the regiments of Loodiana and Ferozepore.

138. And one of those volunteered for Burmah?—Yes.

139. You have stated that the allowances of the sepoy, generally speaking, have not altered since the last charter; has not hutting money been given to the Bengal sepoy?—Yes.

140. And that was confined before that time to Madras and Bombay?—It was.

141. Was there not also an increase made to the scale of pensions for wounds?—There was.

142. Is the system of promotion as regards the native non-commissioned officers the same in Madras and Bengal?—No; at Madras they select for promotion for the non-commissioned and commissioned officers, whereas in Bengal the system is one of almost strict seniority.

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143. Which system in your opinion works the best?—There is no doubt that the systems of Madras and Bombay work very well, but the policy of any important change in this respect in Bengal is very doubtful.

144. You think it would not be prudent to make any change?—Not any material change.

145. Mr. *Mangles.*] Why do you think it would not be prudent?—The habits of the sepoys are such that a change of that kind might affect their devotion to the service.

146. Mr. *Hardinge.*] Is not a man when he reaches the rank of subahdar and subahdar-major often very old, and in some cases infirm?—I observe, on looking at the ages of the native officers in the Bengal regiments, that some of the seniors are of a great age, and should be invalided; but many of the juniors do not appear to be of an age likely to incapacitate them for active duties.

147. Has the Regulation limiting the number of officers absent from the regiments on staff employ been strictly adhered to; has there not been a departure from the Regulation?—I believe the Government have adhered to the Regulation as far as was possible; but where cases of emergency have arisen, the number has been exceeded.

148. Have you not heard of some cases where a regiment has been commanded by a lieutenant?—Such cases have arisen for a short period.

149. Can you suggest any means for remedying the deficiency of European officers for the native corps?—The Government at home have suggested that the drain from the regiments of the three Presidencies shall be equalised; if that measure is carried out, there will be no undue strain upon any one regiment in the service.

150. Do you see any objection to the Company's officers taking rank with the Queen's officers in this country?—They do take rank now, by courtesy, with the Queen's officers in this country in receptions at Court; in public ceremonials, and on all other occasions.

151. But that is merely by courtesy?—Yes.

152. Can you mention any additional boons which have been granted to the sepoy beyond those you have mentioned in regard to an increased scale of pensions?—Yes; good-conduct pay has been granted to every sepoy after 16 years' service, and again after 20 years' service. The pay of jemadars of infantry regiments has been increased, and pensions for wounds received in action with the enemy, and the pensions to the heirs of native soldiers killed in action have been increased. The rules granting them priority of hearing in the judicial courts have been revived and rendered more complete. They have been granted compensation when the price of provisions forming their diet exceeds a certain sum. The Bengal sepoys have been granted hutting money; their letters from their families now pass free of postage, and various minor arrangements have been adopted calculated to add to their comfort.

153. Mr. *R. Hildyard.*] I understood you to state that in 1834–5, when a very considerable reduction of the force took place, economical considerations contributed to that reduction?—They did.

154. Am I to understand from that that the army was reduced to a lower state of efficiency than would otherwise have been, in your opinion, desirable?—Undoubtedly.

155. Mr. *Herries.*] You stated that the smallest number of the army was, at the time it was reduced, to the extent of 108,000 men; in what year was that?—Since the year 1834 the smallest number to which the army was reduced was in the year 1835, and then it amounted to 183,760, being 108,000 less than in the year 1826.

156. And since 1834 the largest number of the army has been the present amount of 289,529?—In the year 1847 the number was 291,796.

157. What is the difference between the total charge in those two years?—I have not the charge for 1834 here; it was between 7,000,000 *l.* and 8,000,000 *l.*; as far as I recollect the difference is about 3,000,000 *l.*

158. And the increase of the population of British India has been from 130,000,000 to 150,000,000?—The present aggregate, including all the protected states, is computed at 150,000,000.

159. Mr. *V. Smith.*] You stated that officers of the Indian army are not permitted, in this country, to take rank with the officers of the Queen's army, except by

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by courtesy; why are they not, by right, permitted to take rank with them?—Their commissions are for the East Indies.

160. Therefore they would not take any rank here?—No.

161. Mr. *Mangles.*] They have the Queen's commissions equally with other officers, but their commissions are confined to the East Indies?—Exactly.

162. Lord *Stanley.*] Can you give the comparative expense of a regiment of native infantry and a regiment of Queen's infantry?—The amount is specified in the account I have given in.

163. Have you stated the difference of expense between a regiment of irregular native cavalry and a regiment of regular native cavalry?—It is included in the statement laid before the Committee.

164. Is there not a very general feeling among the officers of the Indian army with regard to the superiority in point of efficiency of the irregular over the regular native cavalry?—I have heard such an opinion frequently expressed by infantry officers; but officers of the regular cavalry do not entertain that opinion. Each branch appears to be considered efficient for its own proper duties.

165. Can you give any statement as regards the Sikh troops at present in the service of the Company?—I have not an accurate statement as regards those regiments which have been raised for service in the Punjaub. Those raised by Lord Hardinge in the year 1846 are nearly wholly composed of Sikhs; those raised subsequently are only partially so composed. The number of Sikhs in the native infantry, as returned by the last report, was only 50.

166. You have not stated what is the number of commissioned officers in a regiment of native infantry?—The number at present is 23, exclusive of the colonel; of native officers there are 20.

167. What is the number of non-commissioned officers?—There are 60 havildars and 60 naicks.

168. Taking commissioned and non-commissioned officers together, is not the number of officers, commissioned and non-commissioned, much larger in proportion to the number of privates than in the case of any other service in the world?—It is.

169. Does not that arise from the system of having all the superior officers Europeans, and all the inferior officers natives?—It does.

170. Sir *J. Hogg.*] How has the office of Commander-in-chief of the forces been filled up at the Presidencies of Bengal, Madras, and Bombay; has it been always filled by Queen's officers?—Not always; but there has been no instance, during this century, in which the appointment of Commander-in-chief, either of India or at the minor Presidencies, has been given to the Company's officers; they have succeeded occasionally to the temporary command in consequence of the death of the officers holding commands in chief, but they have not in any one instance during that time been so appointed.

171. Do you think it would conduce to the good of the public service and to the benefit of the Indian army, if an Indian officer was occasionally appointed to the chief command at the different Presidencies?—It could not fail of being advantageous, that officers who have been wholly devoted to the service of India, and who are familiar with the character, habits, and wants of the troops in that climate, native as well as European, should be occasionally appointed to the chief commands; such appointments would stimulate the zeal of the officers, and would be a distinction sought with the most ardent anxiety.

172. Mr. *Mangles.*] Has it ever occurred to you to look into the proportions in which honours from the Crown are granted to officers of the Royal army, and to officers of the Indian army respectively, taking the numbers of the officers of the Indian army of a rank to receive honours from the Crown and those of Her Majesty's army respectively?—There is no doubt that the proportion allotted by Regulation is in favour of the Queen's army, but the allowance practically to the East India Company's army is considered to be liberal.

173. Why should it be considered to be liberal if it be less in proportion to the honours granted to those who are immediately in the service of Her Majesty?—I do not think that the same arithmetical proportion by Regulation has ever been rigidly maintained or has been desired.

174. Why should not officers equally serving the country, only under the interposed government of the East India Company, receive as large a proportion of

of those which have been called the chief rewards of the nation as those who are serving more immediately as Queen's officers?—No doubt the one is as much entitled to favourable consideration as the other. *P. Melvill, Esq.* 14 Dec. 1852.

175. Have they not served Her Majesty with equal talent and devotion?—Undoubtedly they have. I would mention that, in the late campaigns in India, officers who have been distinguished have received honours from the Crown, without any reference to the number fixed by Regulation. The present number of Companions of the Bath exceeds, in consequence, by 50 the number so fixed.

176. Mr. *Hardinge.*] In the Queen's regiments the establishment of officers is six captains, 23 lieutenants, and about eight ensigns; is not that establishment of subalterns a very large one?—The establishment of subalterns in the Queen's regiments in India is larger than that in the Queen's regiments in other parts of the world. The East India Company have at different times asked that that difference should be corrected; but hitherto the establishment has remained as I have mentioned.

177. Do you conceive that a reduction in that number might be made without diminishing the efficiency of the service?—Undoubtedly.

178. You have stated the number of horse and field guns in the Indian army; can you state the proportion of nine to six-pounders?—The field batteries are all nine-pounders, and the horse artillery are six-pounders.

179. Take the Bengal army, for instance, what is the proportion of nine to six-pounders?—In the Bengal army there are five brigades of horse artillery, the whole are armed with six-pounders; the foot batteries, amounting to 18, are armed with nine-pounders.

180. Has the detachment system been tried in Bengal?—It has been tried experimentally, and has not been adopted.

181. Can you inform the Committee whether in action the Indian artillery carry the same number of rounds as the Royal artillery carry?—I am not aware of the number of rounds carried by the Royal artillery; but Lord Hardinge ordered that there should be an ample supply in the frontier depôts (I believe 1,000 rounds per gun), and that artillery proceeding on service should take 220 rounds a gun (six-pounders), exclusive of reserve ammunition, with the park.

182. You believe it to be the same now, according to the Regulation?—The troops on the frontier are kept on the same scale as that which was established by Lord Hardinge.

183. Can you suggest any improvement in the pay department of the army?—The Court of Directors have lately expressed an opinion that it would be desirable to divide the system of audit in Bengal into two portions, there being a separate auditor for the Upper Provinces and one for the Lower Provinces.

184. Has there not been great delay in receiving answers to applications made?—There has; and this suggestion is made with a view to obviating that delay.

185. The Auditor-general corresponds with the Secretary-at-War in this country?—The duties of the military Auditor-general are those of audit and of supervision over the military expenditure.

186. Do you see any objection to granting an officer one year's leave to Europe after six years' service, and another year's leave after another six years' service?—I think it would be very desirable to divide the three years' furlough into separate portions of one year each, commencing at the end of every six or seven years, and to grant furloughs in the same ratio throughout an officer's service.

187. An officer must now serve 20 years before he becomes entitled to a pension?—Yes, unless he is compelled to retire from loss of health.

188. Mr. *Baillie.*] You were asked a question with regard to the proportion of honours granted to Queen's officers and to officers of the Company's army; is it not the fact that the pay of the Queen's army, when not serving in India, is much less than the pay of the Company's army?—The pay and allowances of the troops in India are more than the pay and allowances of officers of the Queen's army serving in the West Indies.

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189. Or in other parts of the world?—Yes; but the difference is much less with regard to officers serving in Ceylon; there they have colonial allowances in addition to their pay.

190. But in the West Indies, or any of the distant colonies, they have no colonial allowances?—In the West Indies at present colonial allowances do not, I believe, exist.

191. Is it not the fact that the pensions and retiring allowances in the Company's army are much higher than those of the Queen's troops?—Yes.

192. And the officers of the Indian army have this advantage, there they do not purchase their commissions?—Yes.

193. Then, in point of fact, the service altogether is much more advantageous than the Queen's service?—Without entering into comparisons (which, to be complete, must include many collateral considerations), I would observe that it has always been the system of the East India Company to secure the just promotion of their servants, and to make liberal provision for them and their families; by the constant adoption of this course their service is justly popular, and presents as fine a field as can exist for the application of talent, zeal, and energy: a better opportunity can scarcely offer for the development of individual merit than is furnished in the service of the East India Company.

194. Mr. *Clive*.] Do not you believe, as far as you know, that no dissatisfaction exists in the army with regard to distinctions?—Decidedly none.

195. Lord *Stanley*.] Is there not a difference between the rank which native officers may attain to in the regular and in the irregular corps?—In the irregular corps they attain to a higher relative rank than they attain in the regular corps.

196. For instance, is it not the fact that in the irregular corps raised in the Punjaub a regiment is commanded by a native colonel?—Not in the East India Company's service; all those regiments are commanded by European officers. There is no regiment in the service commanded by a native officer.

197. Mr. *Baillie*.] In the regular native force, what is the highest rank to which a native can attain?—That of subahdar major.

198. How many subahdar majors are there to each regiment?—There is one to each regiment.

199. Mr. *Mangles*.] Do not you think that there is great anxiety on the part of the officers of the East India Company that they should be occasionally appointed Commander-in-chief at the several Presidencies?—I think there is great anxiety on their part that they should participate in those commands.

200. Lord *Stanley*.] You have referred to the furlough regulations as they affect the officers of the Company's army; is it not the fact that all those regulations originated at a time when the communication between India and England was on a very different footing from what it is now?—Undoubtedly; they all originated in the year 1796.

201. In point of fact, those regulations originated at the time when the communication between India and England occupied four or five months?—More than that.

202. And they are, therefore, to a certain extent, inapplicable to the present time?—They certainly require revision.

203. Mr. *Hardinge*.] When the army takes the field, Queen's officers are eligible for the appointment of deputy quartermaster-general and brigade major, but in time of peace they are ineligible; do you see any great objection to their being eligible for those appointments in time of peace?—If the emergencies of the service require that you should withdraw Queen's officers from their regiments for those appointments, I do not see that there would be any objection to their being so withdrawn.

204. In the enumeration of the irregular infantry, did you include all the local corps, such as the Bundlecund legion?—Yes, the whole.

205. Mr. *Baillie*.] Will you state what are the several native states in which there are contingents, and the number in each state?—I have not the return here; but I can state generally that the Gwalior state furnishes a contingent of about 8,000 men; the Nizam about 9,000; the Guicowar, 3,000; Mysore, nearly 5,000. The aggregate of the contingents is about 32,000 men.

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206. Are they all officered by European officers selected from the regiments of the East India Company?—They are, with the exception of a small number in the Nizam's contingent appointed before the rule was established that officers should be wholly officers drawn from the Company's army.

207. Mr. *Hardinge*.] In the Nizam contingent there is a brigade command?—There are two or three brigade commands attached to it.

208. It is composed of infantry, cavalry, and artillery?—Yes.

Jovis, 24° *die Februarii*, 1853.

MEMBERS PRESENT.

Mr. Disraeli.	Mr. Vernon Smith.
Mr. Baring.	Mr. Lowe.
Mr. Elliot.	Sir George Grey.
Mr. R. H. Clive.	Mr. Hume.
Sir James Hogg.	Sir T. H. Maddock.
Lord Stanley.	Mr. Hardinge.
Sir Charles Wood.	Sir R. H. Inglis.
Mr. Labouchere.	

THOMAS BARING, Esq. in the Chair.

Lieutenant-General Sir *Willoughby Cotton*, G. C. B., called in; and Examined.

Lieut.-Gen. Sir *W. Cotton*, G. C. B.

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209. *Chairman*.] WILL you have the goodness to state generally the nature and duration of your service in India?—I went to India with the rank of full colonel in the year 1821, and on my arrival there was appointed to command a station and troops at Poonah. On the 47th regiment, to which I belonged, being ordered to Ava, I was desired by the Commander-in-Chief and the Governor-general of India to proceed to Calcutta. When I got there I was appointed Brigadier-general with a commission on the staff, and ordered to go immediately to Rangoon, and report myself to Sir Archibald Campbell. On my arrival at Rangoon I was appointed by Sir Archibald Campbell to command the Madras troops that were employed at Ava, and I held that command until the peace, and afterwards till the embarkation of the whole of the Madras force on their return to that presidency. On my return to Calcutta, after the Ava war, I was appointed to act as Quartermaster-general of the Queen's army, in the room of Sir Stanford Whittingham, who was appointed a Major-general. I held that appointment for one year. On the death of Colonel Macdonald, the Adjutant-general of the Queen's army serving in India, I was transferred from the Quartermaster-general's department to that of Adjutant-general, and held that appointment till I received the rank of Major-general and came home. In the year 1837 I was again ordered to India as Major-general on the Bengal staff. I was appointed to the command of the provinces in the lower country of Bengal; on the formation of the army of the Indus I was appointed to command the first division of that army, and ordered to proceed to Ferozepore. On my arrival at Ferozepore, Sir Henry Fane, who was to have taken charge of the whole of the Bengal troops and to proceed with those of Bombay to Affghanistan, declined the command of the Bengal army, and I was desired to take them to Shikarpoor, and then form a junction with Sir John Keane, and to serve under him through the operations that might take place. I did so, and on Sir John Keane leaving the army I retained the command of that army till my health suffered, and I was relieved by General Elphinstone. I then proceeded to England, and remained in Europe until the year 1847, when I was appointed Commander-in-Chief of the Bombay Presidency, and I held that appointment to the year 1850, when I returned to England.

210. You have had ample opportunity of judging of the Indian army, both in peace and in war?—I have seen the armies of the three Presidencies, and served with them.

211. Having seen the Bengal army under every variety of circumstances, will

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will you have the goodness to state to the Committee your impression of its efficiency?—I should mention, that when I arrived at Rangoon I was appointed to the Madras troops, which took me more immediately from those of Bengal, but during the whole term of that service I never heard of anything in the world that could be imputed to them as deficient either in their discipline or their gallantry in the field. I served with them in Affghanistan, and no troops could serve better; and I had never the slightest fault to find with them, except in one unfortunate instance of a regiment of cavalry which did not do their duty.

212. You found generally their discipline to be such as you would approve, both in quarters and in the field?—Perfectly.

213. Were their equipments of arms, accoutrements, and clothing sufficient?—Perfectly. I may say with regard to the armies of the three Presidencies, that when they are supplied with the new rifles, which the Honourable Company are now going to send out to them, I do not suppose it is possible for any army to be better equipped than they will be.

214. Is it your opinion that the officers generally are able to converse with the sepoys in their own language?—Perfectly; because no officer can have charge of a company till he has passed an examination in their colloquial language; and no officer can hold a staff situation until he has passed both in the Mahratta and Hindostanee languages.

215. Has there been any deterioration in the qualities of the troops as soldiers?—None whatever, that I have seen.

216. That applies to the Bengal army?—Yes; I have never seen any deterioration in that.

217. With regard to the Bombay army, what is your opinion of its efficiency?—I do not think it is possible for any army to be in a more efficient state than the Bombay army is in. I received it in most excellent order from my predecessor, and I trust I left it in good order. One very important thing is, that there is no prejudice of caste in the Bombay army. If you required to-morrow morning any number of them that you could lay your hands upon, you would have no more difficulty in embarking them than you would have in embarking a corps of British troops in the Thames.

218. Is there any difference between the system of promotion amongst the native regiments in the Bombay army, compared with that of Bengal?—in Bengal, it is by seniority; in Bombay, it is by selection usually.

219. Would you give preference to that system, or the other?—Certainly to selection.

220. Does it appear to you that the Bombay system could be introduced with expediency into Bengal?—I do not feel prepared to answer that question. I think selection so much preferable to seniority, that I should be inclined, if I were Commander-in-Chief at Bengal, to try, if possible, to introduce it into Bengal.

221. The system of invaliding or pensioning is very important for the comfort and satisfaction of the native army; are you of opinion that it is efficiently carried into operation?—The system of pensioning prevails throughout India, and though the rates are moderate, they are as liberal as the finances will admit of, as the aggregate of the whole is so very great. The Committee are aware that there are no native invalid battalions in Bengal. We have them in Bombay; but I found very great dislike on the part of the natives to be invalided. They all press for discharge; because, supposing a corporal, what they call a naick, is invalided to-morrow, he has no promotion; he remains a naick for ever. Therefore they do not like it; they prefer direct discharge. When I visited the stations where they are quartered, they came to me in bodies, several of them, to beg that they might be discharged.

222. Is the invalided corps of any efficient use?—They put them on the coast in the old forts as a guard over the provisions and stores that are laid up; that is the use they make of them, because they cannot move; they are completely inefficient for any actual service.

223. Is the discharging of old soldiers more expensive to the Company than the putting them in an invalid corps?—The pension is according to the number of years that a soldier has served. At first it will appear expensive, but on the other hand the invalid battalions of Bombay are very well taken care of, and the duration of their life is very great; therefore I conceive that the best plan is

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is to discharge them at once, to get rid of them, because they are of no use to you.

224. With regard to the commissariat department, did you find that efficient in the field?—I think the Bengal commissariat much more efficient than the Bombay.

225. In what respects?—In the field; I think it is impossible for anything to be more efficient than the Bengal commissariat was with the very large force I had under my command, and the very extensive march that I made with them, with that force, 1,300 or 1,400 miles across the Indus, with every opportunity of trying them; nothing could be more efficient than they were. The failure which took place when we got into Beloochistan and Cutch, and the Bolain Gundava Pass, was not the fault of the Bengal commissariat; it arose from the promises which had been made to Sir Alexander Burnes not being kept by the Khaun of Khelat, and various petty chiefs, who had promised to lay in provisions at different points, to be taken up as the columns moved on.

226. Had you any cause to be dissatisfied with the Bombay commissariat?—I do not think the Bombay commissariat in the field is by any means so efficient as the Bengal, from what I saw of it; but then Sir John Keane was placed under very awkward circumstances. The Ameers at Hyderabad did not give the provisions they had promised him, or the carriage and camels, and other things that they had promised, so that he was obliged to draw upon me, and he crippled me most dreadfully; he took half my carriage and provisions. But from my experience when I commanded at Bombay, I do not think the commissariat system is so good as in Bengal.

227. What is the defect in the system?—I do not think the officers understand it so well, and I do not think the departments are so well organised.

228. Are the native contractors less to be relied on?—No; I never heard any complaint against the native contractors by the commissaries, but I do not think it so well arranged; I think the department in Bengal is much superior.

229. Does that inferiority of the department in Bombay arise from the number of European officers not being sufficient?—Not at all; but I do not think they understand their duties so well as in Bengal.

230. In time of peace did it answer your purposes?—The Bengal commissariat have a larger latitude given them of laying out money than the Bombay have. The Military Board at Bombay is a very great check upon the commissariat; they complained of it.

231. You mean in granting money?—The Military Board look into the accounts; they do that in Bengal too, I think.

232. Mr. *V. Smith.*] Is the Bengal commissariat much more expensive than that of Bombay?—Yes; in laying in provisions they have great latitude. If you move with a column your army must be fed, and you may be obliged to lay out large sums.

233. Sir *T. H. Maddock.*] Is not the food of the Bengal sepoy cheaper than that of the Bombay, and is not the carriage of the Bengal army hired at a cheaper rate than that of Bombay?—About Ferozepore and in the territory of the Rajah of Bahawarpoor, ottar and rice are much cheaper than they are at Bombay.

234. But the Bengal sepoy does not live upon rice?—He would be very glad to have a rice ration. He likes rice as well as the other, but he likes more stimulant with it.

235. But his ordinary food is not rice?—He will eat it if he cannot get his ordinary food.

236. *Chairman.*] With regard to the equipment and organization of the artillery in India; do you consider that to be good?—I think it is not possible to be better.

237. You do not consider it inferior to the Royal Artillery?—Not the least.

238. Did the officers of engineers in India appear to you to be fully equal to the duties required of them?—Fully, in every way.

239. Are the barracks in India suitable to the accommodation of the troops in that climate?—There are new barracks in Bengal not yet finished; in Bombay it is impossible anything can be better, or more liberally constructed for the comfort of the men.

240. Had you occasion to make any representations to the local government with respect to defects in the barracks?—Several times.

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241. Did you find a readiness on the part of the Government to listen to them ?—In every possible way.

242. Have you had irregular corps of infantry under your command ?—I had.

243. What number of European officers are attached to them ?—I think four, including the surgeon.

244 Does that number appear to you sufficient ?—Quite so.

245. Did you find those corps efficient for the purposes for which they are intended ?—Quite so, they deserve every possible commendation.

246. With regard to the number of officers that are generally retained for each corps; do you consider that the present system of removing officers from their corps for staff employment in India has been a serious injury and disadvantage ?—I think it is a point requiring most serious consideration; and I took the liberty of mentioning the same in my evidence before the House of Lords. I conceive that a field officer and two captains are indispensable with a native corps, besides the subalterns; and if those subalterns are taken away for different miscellaneous purposes they always fix upon the best, and very naturally. But I should strongly recommend that you either increase the number of officers of higher grades, or that you organise at once a staff corps.

247. The only objection to that would be the expense ?—Of course, if you organise a staff corps, it would be expensive.

248. When officers have been employed on services on the staff, and then return to their regiment, are they found efficient ?—They are generally inefficient. I know instances of it.

249. Sir *C. Wood*.] They are not fit for regimental duty ?—Not until they have brushed up again their regimental practice.

250. *Chairman*.] Would that be of serious consequence in case they were called into active service ?—Certainly, they could not manœuvre their battalions; they would find themselves at a loss in the command of their regiment.

251. Sir *C. Wood*.] In point of fact, they are called back to their regiments precisely when the regiments are about to enter into active service ?—Exactly. When a regiment is ordered for service, every officer on staff employment is immediately ordered to join.

252. *Chairman*.] There is a system which prevails of making a subscription, to enable an officer to retire upon his pension; do you think that works well ?—I know exactly what you mean; it is buying an officer out of the service; and I think myself it is desirable, for this reason, that by that means you get rid very often of old, inefficient officers, and active young men fill their places.

253. Does it only prevail with regard to the senior officers, or is it adopted with junior officers as well ?—I think generally it is with the seniors.

254. Is it not subject to abuse when juniors are bought out ?—It may have been applied to juniors in this way. A major of a regiment says he will retire if he can get a certain sum; in order to make that sum up I have heard of officers being called upon, according to their grade, to give to the general purse.

255. That might be liable to abuse ?—It might apply in that way to juniors, but otherwise usually it is applied only to the seniors; they make it up; they say, "I will give you so much if you will retire."

256. With regard to the present system of furlough, should you recommend any change in that, with reference to the Indian army ?—I think the greatest boon that could possibly be conferred on the European officers of the Indian army, and one which they would appreciate more than any other, would be that the present system of furlough should be allowed to remain, limited to time, and not to place; and that some portion of the furlough, now only granted at the end of 10 years' actual service in India, might be taken at an earlier period. That is my opinion about furloughs.

257. Is that the same system which is adopted with regard to the Queen's troops ?—No; there is a different system with regard to the Queen's troops; and I should strongly recommend that the Company's officers might enjoy just the same benefit. I can give the Committee a practical proof of the difference in a moment. When I came from India, the Quartermaster-general of the Bombay army, who had served above 30 years, and had been in Affghanistan, owing to his wife's health, was obliged to come to England; he never had had a furlough. He then asked for a furlough, and he came, and was obliged, of course,

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course, to vacate his appointment, and they appointed another officer. The Queen's Adjutant-general at the very same time came to England, in consequence of his wife's health, and returned to his appointment after his leave expired; that officer had two years' leave, and, at the end of two years, he was allowed to come back and resume his appointment, whereas the Quartermaster-general of the Bombay army was obliged to give up his appointment, and now, when his two years' leave are up, he has no chance whatever of resuming the appointment. Now, I say that they ought both to be put upon the same footing.

258. Do you think that the expeditious mode in which people can travel now by steam ought to place England upon the same footing on which the Cape of Good Hope was formerly with respect to furlough?—Exactly; you can come home from India now much quicker than you could get to the Cape in former days by a sailing ship.

259. Looking to the extent of the territory and population of India, do you consider the Indian army now kept up to be upon too large a scale?—Certainly not.

260. Do you think it ought to be increased?—If you annex Ava I should think you would have to increase it by some local corps; but even at present there is ample employment for the army as it is, and I would not decrease it a man. I could name one or two points where they might be employed now, at once, and where a corps of 20,000 or 30,000 men might be called for.

261. Are there any suggestions which your experience would induce you to make to the Committee?—No, I will not trouble the Committee with any.

262. Mr. *Clive*.] With regard to furloughs, there is an idea that 10 years' service previously to being allowed to return to England is too long a period; have you ever considered that question?—That is exactly one of the points I have already mentioned; I would give the furlough earlier than 10 years.

263. Would seven years be a proper period in your opinion?—I should think seven years would be a much fairer period to grant furlough from. So important I thought the point of furlough, that I have written it down this morning myself; and, if the Committee will permit me, I will read what I wrote: The greatest boon that could be conferred upon the European officers of the Indian army, and one for which they would feel most grateful, in my opinion, is, that the present system of furlough should be allowed to remain exactly as it is, only limited to time, and not to place; what I mean to say is, that instead of making them wait 10 years before you give them a furlough, you should allow them to have it at the expiration of seven, and then, instead of limiting them to the Cape, you should extend it to England; in fact, if an Indian officer goes to the Cape he can resume his appointment, but if he comes to England he gives it up instantly. Now, in the Queen's service an officer who comes home on furlough, on returning, goes back to the situation he held.

264. At present the officers, and civil servants as well, are allowed to remain three years absent from India. If you allowed them to withdraw after seven years, would it then be necessary that three years should be allowed for their absence; would not two years, under those circumstances, be sufficient for an officer who has leave of absence?—I think possibly it might be so; but it depends so much upon the circumstances under which he asks for leave of absence. As a general principle, I should think two years would be enough, because now they get home so much quicker, and return so much quicker.

265. So that two years' absence would be sufficient?—Possibly it might.

266. Sir *C. Wood*.] Would an officer in the Queen's service now be allowed to be absent from India three years, and then to resume his place?—Two years are given him, and then he resumes his appointment. The Horse Guards allow it.

267. Sir *T. H. Maddock*.] Do you consider the troopers and regular cavalry, either in the field or in cantonments, superior to those of the irregular corps, or the reverse?—I think the irregular corps are fully as well mounted as the regular. I have seen them much better. For instance, Jacob's corps, I think, are mounted, not only as well, but better than most of the regular corps.

268. Do you consider them equally efficient in the discharge of their duties?—In every duty.

269. Do you know the comparative expense of maintaining a thousand regular cavalry and a thousand irregular cavalry?—I can answer that by stating what you enlist an irregular man and his horse for in Bengal, and what in Bombay. In Bengal it is 25 rupees, and in Scinde; in the Punjaub, where the

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the last corps were raised, 25 rupees a month was allowed for a man and his horse. In Bombay it was about 35 rupees for a man and horse per month.

270. Mr. *Hardinge.*] What causes that difference of expense between Bengal and Bombay?—The facility of getting a horse is much greater in the Punjaub than in Bombay.

271. Has there ever been any complaint in the Bombay army with regard to the swords used by the regular troopers?—Very great complaint. The sword which a native of India prefers beyond any other is the scimitar, not the straight sword.

272. Have there not been complaints also with respect to the saddles?—Yes, they do not like the saddles.

273. Has any representation on that head been sent home?—I do not know; I have heard it repeatedly during the time I have served in India, both the first time, and afterwards, when I was Commander-in-Chief at Bombay; but I made no representation of it at home, nor did I mention it, except in my evidence before the House of Lords.

274. Sir *T. H. Maddock.*] Have you ever known troopers going into action ask permission of their officers to take their native swords, in preference to the regulation sword?—I have heard so.

275. Is it a frequent occurrence?—I have heard so, and that it was done no later than in the last campaigns of Lord Gough; but I cannot speak to the fact from my own knowledge.

276. With reference to a former question, if you were aware that the expense of maintaining 1,000 regular native cavalry in India was more than three times the expense of maintaining 1,000 irregular cavalry, should you consider it desirable to maintain the large force of regular cavalry which is now kept up?—In answer to that, permit me to say that every regular army in the field must have irregular cavalry with it. The duties of the irregular cavalry are totally different from those of the regular cavalry; the duties of the irregular cavalry are to move upon the flanks of an army, and to keep off the hovering tribes, either infantry or horsemen, when marching through a hostile country; they are also much used as an escort for the commissariat and for the camels. In fact their duties are totally different from those of the regular cavalry.

277. I understood your former answer to express an opinion that the irregular cavalry was, both in the field and in cantonments, equally efficient with the regular cavalry?—I thought you meant particularly in the field, because you have not the irregular cavalry usually in cantonments; they are always dispersed in peace time in the districts. But, in order that my answer may be clear, I should state my own opinion, that I think the irregular cavalry a most valuable and important arm.

278. Are you aware how much the native regular cavalry of Madras have been employed in the field, during the last 30 years?—Not at all. I can give you no answer with reference to the Madras troops, never having served in that presidency; nor can I state anything with regard to the Madras troops, except from what I saw of them when I had the honour of commanding the Madras army in Ava.

279. Sir *R. H. Inglis.*] In reference to a former answer (225), in which you allude to certain native chiefs, and from your general acquaintance with the princes and people of India, can you state to the Committee how far you have found the army supported in its operations by the general concurrence of the people through whose territory it may have had occasion to pass; for example, in the last campaign in Affghanistan?—In moving from Ferozepore with the Bengal army we passed by the right bank of the Sutlej, through the territory of the Rajah of Bahawarpoor, until we reached the Fort of Buckor, on the Indus. I found the most cordial co-operation on the part of the Rajah of Bahawarpoor that it was possible to give, by having formed depôts at the points indicated to him by the Government previously, with supplies of wood, &c., &c., for the march of the troops through that country.

280. Can you state anything to the Committee with further reference to the Rajah of Khelat?—Yes, I can; the conduct of the Rajah of Khelat was totally different from this. Sir Alexander Burnes had promises from him of provisions at the date of his entrance to the Bolain Pass, not one of which were performed; for I went through the Bolain Pass with a different division, and we did not find at any one spot the provisions that he had promised Sir Alexander Burnes to lay in.

281. Had

281. Had you any reason to think that those promises were made in reference to any stipulations in his favour?—I cannot answer that question.

282. The answer you have just given has had reference to two princes; can you state anything with reference to the other princes, the Ameers of Scinde?—The points that I know with regard to the Ameers of Scinde are these: the Kheerpoor territory is the one next the Bahawarpoor Rajah, and the Kheerpoor Rajah reviewed our troops that came down, and was apparently exceedingly friendly. When I got down to Buckor, the communication between Sir John Keane and myself was stopped, and I got information from various quarters that the Ameers at Hyderabad had not allowed him to pass the fortress of Hyderabad; and as I had to throw a bridge over the Indus at Buckor, I thought the best mode in which I could employ the divisions that had arrived was to relieve Sir John Keane's position. I moved the cavalry, and then the infantry, directly on the left bank of the Indus upon Hyderabad, and I got four marches towards Hyderabad, and then the move showed its effect. The Ameers permitted Sir John Keane to pass Hyderabad, paying at the same time a subsidy that was demanded of them for Shah Soojah. The moment he was relieved, Sir John Keane ordered me to countermarch the columns, and to cross the river and wait for him at Shikarpoor. I conceived the importance, in a military sense, that it was absolutely requisite that we should occupy Hyderabad and not leave princes there, with eight or ten millions of money, evidently hostile on the line of our communication; but I was again ordered to pass the river and proceed to Shikarpoor. On my arrival at Shikarpoor, having intelligence that the enemy were going to occupy the Bolain Pass, I thought it highly desirable to anticipate their doing so, and accordingly I moved a division of cavalry and two divisions of infantry with the artillery through the pass, and waited at Kettur for Sir John Keane, having received particular directions from him and Sir William M'Naughton, the political agent, not to cross the frontier into Affghanistan till they arrived.

283. Lord *Stanley*.] You have stated that the European officers are called upon to pass an examination in the colloquial language of the country, with a view to their being able to converse fluently with the troops under their command; is it your opinion that that examination is a really severe one, or does it, in some cases, become little more than a matter of form?—I believe it to be a strictly honourable examination, from what I have always understood.

284. Do you think that in consequence of that all the European officers, or the majority of the European officers, are really able to converse fluently and familiarly with the native troops, and with the natives in general?—Not the European officers, certainly; what I meant to state was, that no officer can have charge of a company until he has passed an examination in the colloquial language, nor can he fill a regimental staff appointment without having passed an examination in two languages, which are Hindostanee and Mahratta.

285. Is it the fact that after he has once passed that examination he has not, in any subsequent stage of his career, any further examinations to go through, and that it is therefore possible that he may have forgotten the native language?—No; the examination in a colloquial language will not do for holding a staff situation; it will only do for holding a company.

286. You spoke of the Bombay army as being free from all prejudices of caste; do you not think that those prejudices of caste are greatly diminishing in the Bengal and Madras armies?—I cannot answer for the Madras army, not having served with it, except when I was in Ava. There I saw no prejudices of caste whatever; they were suffering very great privations, which they bore in the most soldier-like and admirable manner. In the Bengal army they have men of much higher caste than they have in Bombay; for instance, they have high caste Brahmins. Now, we had not those in the Bombay army, and it may be prejudice on my part; but I had a very strong feeling that I never would enlist what they call a high caste Brahmin, his influence over the other men is so very great. I do not think they are desirable men in the ranks.

287. Do you think that that influence is sometimes dangerous to discipline?—I think the influence of a very high caste Brahmin is much too great over his comrades, but that is merely a matter of opinion.

288. You do not think, as a general rule, that there is any difference in point of good conduct as soldiers, between the high caste men and the low caste?—No; I like the Bombay army better than the other for general purposes,

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poses, because their caste never interfered with regard to anything they had to do. Now, in Bengal, they do not like going on board a ship; they will not drink any water which they have not themselves put on board ship, and which has been blessed by their priests; and there are a hundred other minor obstructions and difficulties which I have heard of in taking the troops from Bengal to Ava.

289. You spoke of the Bombay Commissariat as being less efficient than the Bengal, in your opinion. Can you offer to the Committee any suggestions with respect to any improvements in the system by which it might be placed on a footing of greater efficiency?—I do not think myself that the Bombay Commissariat works so well as the Bengal, but I have no specific charge to make against it; I think the department might be improved, that is all. In Bengal, as I mentioned, they have greater license.

290. In the Company's native army, is not the number of native officers, commissioned and non-commissioned, in proportion to the number of men, greater than it is in any other service with which you are acquainted?—No, I do not think it is.

291. Including natives as well as European officers, is it not so?—I think not. There are the jemadar and soubahdar, the native officers; we have no such thing in our army. There is the corporal, who is called the naick, the havildar, the native serjeant-major, and the native soubahdar and jemadar, who are the two officers to each company. Therefore, in that way they have more than we have, because we have a serjeant and a regular number of officers with a company; three besides the captain.

292. You spoke of the service performed by the regular and by the irregular cavalry as being different in character; is it your opinion that it would not be expedient or possible to diminish the number of the regular cavalry, and to increase the number of the irregular corps?—I have mentioned before, that every regular army must have regular cavalry accompanying it; but the irregular cavalry is of that service, in my opinion, that I would rather have a smaller proportion of the regular, if you would increase the irregular branch.

293. With regard to the barracks provided for European troops, is it, or is it not your opinion, that all European troops ought, in all parts of India, if possible, to be quartered in hill stations, and not in the plains?—You cannot do that. For instance, there are no hill stations in Scinde; in Bengal, the Upper Provinces give you hill stations, but we have no hill stations in Bombay.

294. Have we not the Mahakishawur hills?—Yes. There are no barracks at the Mahakishawur; there is only a company there to take care of the local treasure, and one barrack for 100 men.

295. Do not you think that wherever it is possible to obtain a site for barracks at a hill station, it would be advisable to incur the increased expenditure of building such barracks, rather than continue to quarter European troops in the low country?—Hill stations are usually most healthy; but I commanded three years in Jamaica, in the West Indies, and I can state that in the barracks in the hill stations there we lost more men than we did at Kingston, or at Port Royal; but usually I should prefer hill stations. When my regiment was at Peshawur they had two or three hundred sick; they were moved from Peshawur to a station that Sir Charles Napier fixed upon, called Dagshain; that is a hill station, and the sick diminished directly; now I have not eight per cent. sick; therefore that is a confirmation of the argument in favour of hill stations.

296. Sir *C. Wood*.] Did you find any inconvenience from the high caste soldiers in your Affghanistan expedition?—Not when there was anything to do; but their influence with the men was very great. That I knew, and from that I formed the wish not to recruit them.

297. Mr. *Labouchere*.] Were there many natives of high caste in the army?—Yes, in Bengal, of very high caste.

298. What kind of proportion of the whole?—I cannot answer that without calling for a return of the Brahmins in each corps, but there were a great many Brahmins.

299. Mr. *Hardinge*.] Are the allowances of the Bombay army precisely the same as those of the Bengal army?—Exactly; Lord Hardinge equalised them.

300. How are the regiments recruited?—We recruit a great deal from the upper provinces of India, and a great deal from the Conchon; in fact we take any fine young men of all kinds.

301. What proportion of high caste men are there to the low caste?—There are

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are but few high caste men; out of 800 men, probably you would not find 50 very high caste men; we do not take them; we do not like them.

302. With regard to the baggage of the Bombay army, is it not the fact that the Bombay army can march with about half the baggage that the Bengal army requires to take?—It is, certainly.

303. Is not that in a great measure to be attributed to the number of servants that the officers take with them?—I always try, in every way in the world, to restrict officers increasing their baggage, for the very obvious reason of the line of march being increased, and also the number of followers. But the real reason is this that in Bengal you get ten servants for the same cost for which in Bombay you would get three, the wages are so much smaller in Bengal than they are in Bombay. You pay very high wages in Bombay.

304. Besides, from the prejudices of the natives in Bengal, is it not the fact, that one man in Bombay will do what you require three men to do in Bengal?—Exactly, that at least.

305. Does the college pass examination qualify an officer in Bombay for a staff appointment?—I do not know that term; the examinations are before a committee; any officers that come forward are brought before the committee, and are examined in Mahratta, or Hindostanee, or Oordoo, or Persian, whichever the individuals selects, and the committee are obliged to sign, if he passes, his papers.

306. That is for all staff appointments?—The Mahratta and Hindostanee will do for the staff appointments.

307. What is required for the political appointments?—Mahratta and Hindostanee; I never understood that there was anything more wanted, except in the Persian Gulf, where of course you must have Persian.

308. You have suggested a plan to remedy the difficulty of the number of officers absent from different regiments on staff and civil employment; you mentioned a staff corps; do you mean a skeleton corps?—No, I mean a staff corps; that is, consisting of officers who should be examined in the various qualifications required to constitute a staff officer, such as surveying, and languages, and drawing, so as to be able to sketch a march.

309. How would those staff officers be promoted?—Let them be taken from the army, and let their promotion go on as it would do if they had been in some regiment. For instance, the lieutenant would succeed the captain, as he would have done if he remained serving with the corps, only let the place with the regiment be filled up with effective men; there is no difficulty about it.

310. You have mentioned that the system of promotions in Bombay, with regard to non-commissioned officers and native officers, is conducted by selection?—Yes, not by seniority.

311. Is it entirely done by the commanding officer, or do the head-quarters ever interfere?—Usually by the commanding officer, unless there is a petition to the Commander-in-Chief, which would be translated by the Persian interpreter and instantly looked into, and the Adjutant-general would be sent for, and the thing would be inquired into

312. Do you see an objection to the Queen's officers, in time of peace, being selected to hold brigade majorships or appointments in the Quartermaster-general's department?—With regard to that, I think that it is much better to let the British officers of the Bombay army derive the benefit of their various staff employments Their duties are arduous to the greatest degree. They are not like British officers, who come there for three or four years, or five or six years, and go away again; it is a service for life with them, and I think they ought to derive the benefit of it.

313. Have the facilities which have been of late years afforded to young officers for borrowing money from the numerous banks which have been established operated prejudicially or otherwise upon the Bombay army?—I never heard that they have operated prejudicially. The Agra banks, and the other banks, have been the means of enabling the young officers to get money, in order to get their promotions and various things, but I never heard that it has operated prejudicially.

314. If a young officer, on joining the regiment, or in landing in India, gets into debt, has he not very great facilities afforded to him by those banks of procuring money?—I think the banks operate rather beneficially than otherwise. Young men who come to India, if they were inclined, could get money without

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without those banks. If those banks did not advance money they would go to the shroffs, the native bankers, and get it at 100 per cent. or 50 cent. interest, whereas those banks give it them at a much lower rate; and all that they have got to do is to insure their lives. I believe that is the usual thing.

315. Have any deserving native officers been appointed honorary aides-de-camp to the Governor?—None that I know of.

316. You are aware that in Bengal there are honorary aides-de-camp to the Governor-general?—Perfectly.

317. Do you think it would operate beneficially?—If a man distinguished himself particularly, I think it would be a good thing to make him an extra aide-de-camp.

318. Sir *J. Hogg.*] Do you believe that previously to the Affghan war the Bombay troops were ever much employed beyond their own territory?—They were employed in the Persian Gulf, under Sir Lionel Smith, in severe service.

319. Except in that severe service, when everything in the commissariat went by sea, was it not the fact that they were scarcely ever employed out of their own territory previously to the Affghan war?—I think there was a corps of them employed at the siege of Seringapatam, commanded by General Stewart.

320. I am aware that there are two or three exceptions; but generally, was it not the case that their employment was within their own territory, and that consequently their commissariat was not organised as the commissariat in Bengal was?—The service of the Bombay troops at the Gulf was very severe service, under Sir Lionel Smith; and there was a corps, I think, at Seringapatam under General Stewart; likewise in Egypt and Mauritius.

321. But they have not been in the habit of taking the field beyond their own territory as the Bengal troops have, and that would necessarily cause the Bengal system of commissariat to be a better organised system than that of Bombay?—Yes, it might be so.

322. Mr. *V. Smith.*] You mentioned that they rejected the high caste men in Bombay?—I meant that they would rather not take them.

323. Does not that give offence to that class of men?—No; you have a right to take what class of men you like when you are recruiting for the army; if you consider that any man would be inferior to others, you have a right not to take him.

324. Sir *R. H. Inglis.*] With reference to a former answer which you gave respecting the feeling of the princes and people of India towards the English Government, will you state to what period you alluded when you considered the feeling and conduct of the Ameers to be hostile; was it before or after their acceptance of the treaty?—When Sir John Keane landed with the Bombay army, which was to move into Affghanistan, and moved up to Hyderabad, the Ameers would not allow him to pass; consequently their feeling must have been hostile. We were very nearly obliged to attack Hyderabad; in fact, I think we ought to have done so; but that is another question; and they would not at first pay the money that Colonel Pottinger, who accompanied him, asked for.

325. But after the acceptance of the treaty, did they or did they not manifest any feeling of opposition?—After they let him go by, and after the acceptance of the treaty, I never heard of any hostile demonstration.

326. Mr. *Hume.*] You said that you preferred low caste men because you found them less troublesome at Bombay; are you aware that in Bengal the rule has been, and still is, to prefer high caste men on all occasions for native infantry?—I did not mean to say that I prefer low caste men; I prefer not taking high caste Brahmins; but there are various intermediate castes, as everybody in India knows, besides the Pariah, which is the lowest caste, and the Brahmin; there is the Purdasey caste, which is the caste of men in Bombay that the sepoys belong to.

327. Do you recollect what the sepoys generally were in Bengal, and whether the officers did not wish to have, if possible, the highest class Brahmins?—I think not; on the contrary; I can give you an instance: a very distinguished officer of the Bengal army has often told me that if he had the power of determining it, he would not have a Brahmin in his regiment.

328. My question is intended to apply to the native infantry of Bengal generally

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rally, whether they are not of a higher caste than the native infantry of Bombay ?—Certainly.

329. Where the officers are in general intercourse with the officers of the native corps, have you found them to approve of that class of men as making the best soldiers ?—I should say that in Bengal, probably, it might be so; but with respect to the Bombay army, I believe that taking the officers of the Bombay army generally, you would find that they would rather take men not of the Brahmin caste; that is the caste I object to.

330. You were asked about the number of officers. During the time you have been on service, have you found the number of European officers with the native battalions amply sufficient for the duties of the corps ?—On the contrary, I have found that many officers have been taken away from the regiments, and I have been obliged to apply for them in consequence of my conceiving that the regiment had not sufficient European officers with it.

331. Has not there been a regulation lately laid down that a certain number of European officers must remain with each corps ?—There are six captains to every infantry regiment. Two ought to be always with the corps; two may be absent from sickness or any other cause, and two others are liable to be called upon by the Government for miscellaneous duties, but I have found that owing to sickness and owing to different causes, instead of having two of those captains, there has often only been one, and the field officers have also been away ill, so that a regiment of a thousand strong was under the command of one captain.

332. With regard to the subaltern officers, have you found a deficiency on many occasions of that class ?—I never would allow it, because whenever the usual number that were allowed by the Honourable Company's regulations were absent, if the Government called upon me for any other, whatever regiment it was, I always objected to give| any, and said it was utterly out of my power to do so; that I would not be answerable for the discipline of the regiment, if he thought proper to take any.

333. What is the number of subalterns who, by the regulations, must be present with the corps ?—I think it is two-thirds.

334. Comparing the native with the Queen's troops, the number of officers in the Queen's is double, is it not ?—Yes; because the Queen's officers are not eligible for those other services.

335. Is it your opinion that the efficiency of the native corps is much improved by having an adequate proportion of European officers ?—Certainly.

336. You spoke of the efficiency of the irregular cavalry; how many European officers do you now attach to an irregular corps ?—Five; a commandant, a second in command, the adjutant, and one besides, and the doctor.

337. Do you consider that number, with reference to the efficiency of the irregular corps, adequate to make them efficient ?—Yes, with the aid of the havildars and the other native officers.

338. Have they soubahdars to each troop ?—Yes; they have native officers. but called russaldars and jemedars.

339. The same establishment as in the regular cavalry ?—Yes.

340. But the number of European officers is less ?—Yes.

341. Is it not that great difference in the number of officers which principally causes the difference of expense between the two ?—Of course; if you increase the number of officers, you increase the expense.

342. Can you state whether the same rule exists in Bombay, which exists in Bengal, for paying for the loss of horses killed in action in the irregular corps ?—I cannot answer that question, but I believe that that has been altered lately; at the original formation of it, they could buy so many nominations, and then the man had the power of leaving them to others; and when the man died, his mother or his widow had the power of furnishing a man and horse.

343. You stated that they were engaged at 25 rupees a month, that is, including man and horse, the man furnishing his horse ?—Yes.

344. Are you not aware that at one time great difficulty existed in getting the men to be willing to risk their horses in the service in which they were employed ?—Perfectly.

345. What remedy has been applied to that; supposing a trooper in an irregular corps to lose his horse in a charge, is he paid for it ?—The Government would always give him a remuneration, not probably the whole cost of the horse; and the men subscribe to a fund from which they receive compensation.

346. Are

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346. Are you not acquainted with the rules in that respect?—No; I know of many men who have had their horses killed in action that have received compensation. I can state what the rule is with respect to English officers; if a horse is killed which the officer has given 100 guineas for, he receives 40 *l.* or 45 *l.*

347. But you are aware that an officer joining a corps is allowed to pick the best horse he can find at the Regulation price?—Yes, that is in regiments of cavalry.

348. If an officer is allowed to pick the best horse at the Regulation price, is not it fair that the Company should only be required to pay the Regulation price in case of the horse being lost?—I cannot exactly tell you what the rule is.

349. Sir *T. H. Maddock.*] Is the Bombay army in any measure recruited from Hindostan?—Yes, in a very great measure.

350. In former years a very great number of recruits were raised from Hindostan; of what caste are those recruits that are now brought from Hindostan for the Bombay army?—Usually the Purdasey caste.

351. By the "Purdasey" caste you mean not Rajpoots?—I mean not Brahmins; I only know them by the names by which we call them there.

352. Mr. *Hardinge.*] Can you suggest any improvement in the dress of the army in Bombay?—No; I do not think they can be better dressed.

353. How are the horse artillery dressed?—Exactly similar to the English. Nothing can be finer than the artillery.

354. You are aware that in Bengal the horse artillery are dressed in jet boots and helmets?—Yes.

355. But in Bombay they are dressed as our horse artillery are?—Exactly, except the shako.

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356. WILL you have the goodness to inform the Committee of the opportunities you have had of becoming acquainted with the Army of India?—In the year 1813 I was appointed Adjutant-general of the Royal forces, and served under the Marquis of Hastings, who held the double situation of Governor-general and Commander-in-Chief.

357. How long were you in India?—I was altogether, at that time, upwards of 12 years in India, on the Bengal establishment.

358. And subsequently?—And subsequently on the Bombay establishment, as Commander-in-Chief, for seven years.

359. Will you state whether you were satisfied with the discipline and efficiency of those portions of the army with which you served?—As to the state of the native army, I cannot go into that so particularly, with respect to the time while I was adjutant-general, as I can with reference to the period when I was Commander-in-Chief; because my functions were limited to the Royal forces as Adjutant-general. But at all inspections and reviews made by the Commander-in-Chief I was present, and when he took the field in 1818; I therefore had an opportunity of seeing them and being mixed up with their details, and I thought very highly of the Bengal army.

360. What was your opinion of the Bombay army?—My opinion of the Bombay army is, that it is perhaps one of the most efficient armies I know of.

361. Were there any defects in the internal organisation or arrangement of the army?—Yes; but those defects in the progress of time have been greatly removed; and therefore I would say that the artillery, cavalry, and infantry, composing the Bombay army, are a most efficient force.

362. Were courts martial of frequent occurrence in the Bombay army when you were in command?—At times they were; but not generally so.

363. Had you occasion to observe whether harmony subsisted between the officers of the Royal and the Company's armies when serving together?—Yes, I think harmony did subsist, and there was always, as far as I observed, a very friendly and cordial intercourse between them in private society.

364. Did you find the Government ready to attend to your suggestions for correcting any defects in the arrangements for the accommodation and equipment of the troops?—I found the Government willing on all occasions to attend to my representations, as far as they could; but on certain questions connected with expenditure, such as new barracks, or various improvements, the

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the expense was the obstacle that stood in the way, the Government perfectly coinciding.

365. When were you Commander-in-Chief in Bombay?—I was Commander-in-Chief in Bombay in February 1840; I served from February 1840 to March 1847; consequently I was seven years at the head of that army.

366. Did you find the native troops in general satisfied with their officers?—Perfectly so. They are the most willing troops that can be imagined; always ready for work; always ready to go to any place, either by land or by sea.

367. You spoke of the barracks; were the barracks of the European troops such as you approved of?—The barracks were greatly deficient when I went out there first: but since that time new barracks have been erected, and improvements have been made to meet the severity of the climate by annexing wash-houses to the barracks, and building verandahs, and by having machines called punkahs, all of which assist very much in preserving health.

368. During the period you were Commander-in-Chief was there the same ground of complaint of which the Committee have already heard, as to the abstraction of officers from their corps for staff and for administrative purposes?—It was a constant subject of complaint on my part when I was Commander-in-Chief, and I look upon it to be a very great evil.

369. You stated that you made representations on that subject; to whom did you make them?—Those representations were subjects rather of conversation than of formal communication by letter; knowing the difficulty that the Government had about expense, I made representations in conversation at the Council table rather than sending them, as Commander-in-Chief, by letter. It was the subject of constant conversation. I understood the Government to say that they were quite willing on every occasion to adopt, as far as could be, my suggestions; for instance, I was allowed to form a corps of lancers; also a corps of light infantry, a fusilier corps, and a rifle corps, which never existed before my time; and which showed that the Government was willing to coincide with my suggestions.

370. In your opinion, should the present system of furloughs be maintained?—I think that a great portion of it should be maintained; but I think it bears very hard on the officers (that is, the Company's officers); I am not making any allusions to the Queen's service. An officer is allowed to go to New South Wales, to China, to the Mauritius, to the Cape of Good Hope, and to Egypt; but not to England without losing his appointment. I say that is a very mistaken rule now existing, and one which bears very hard indeed. If an officer comes to England it is very easy to get him from England; but if you send him to New South Wales, I have known officers who overstaid their leave some seven or eight, and even as much as nine months, because they were not able to find a passage from New South Wales to Bombay.

371. The Committee would be very much obliged for any suggestions you have to make with a view to increase the efficiency of the army?—In the commissariat department I think there might be great improvements made with regard to the native contractors. I think there might be, to a great extent, an abolition of them; not totally; but I think it would be great economy, and would prevent a great deal of fraud if, instead of those native contractors, some other means could be adopted in the commissariat. There are excellent officers in the commissariat department; I allude to the English officers, they are very efficient men; but the native contractors I think much the reverse.

372. Mr. *Hume*.] If you wished to reduce those native contractors, would you supply their place by Europeans, or in what way?—I would supply their place by respectable non-commissioned officers, Europeans, I mean, as far as it could be done.

373. You think that a corps might be formed of certain grades in the commissariat department that would be preferable to the present system of native contractors?—Far preferable.

374. Have you ever made any such suggestion to the Government in writing?—No, but we have talked it over a hundred times.

375. Would you be prepared to lay before the Committee the result of your mature consideration, as to the reforms which you think might be made in the commissariat department?—If the Committee order me, I shall use my best efforts to prepare such a statement.

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376. Mr. *V. Smith.*] You heard the evidence of Sir Willoughby Cotton?—I did.

377. Did you form the same opinion as he did, relative to the employment of particular castes in the sepoy regiments?—I think in most things I perfectly accord with him; but with regard to its being any detriment to the service to have those Brahmins or Rajpoots amongst the men, I think it rather a desirable thing: I am in favour of high caste men very much: I saw its advantage when I was in Bengal, in former days, when I saw some of the finest native corps that can be imagined.

378. You did not observe that they had peculiar influence over the others?—The Brahmins certainly have great influence; I do not mean mischievous influence.

379. Mr *Hume.*] Have you found the opinion of officers who have commanded corps to be in favour of high caste men for maintaining discipline?—In most instances where I have conversed with officers of the Bengal army, I have always heard them praise the Rajpoots and the high caste men; certainly, in physical power they excel the other natives of India.

380. Sir *T. H. Maddock.*] You seem to be of opinion, that for the purposes of the commissariat, it would be desirable to substitute European privates, and non-commissioned officers, in place of natives?—Yes, I would have a greater infusion of Europeans serjeants amongst them.

381. Are not that class of privates and non-commissioned officers in an European regiment, whether the Queen's or the Company's, generally speaking, very ignorant indeed of the vernacular languages?—Then such as could not carry on colloquial intercourse, of course, I would not introduce.

382. Mr. *Hardinge.*] Are not there some regiments in the Bombay army which have a very large proportion of high caste men?—I would not say a very large proportion, but some have high caste men. As the Bombay army is partly enlisted from the upper provinces of the Bengal Establishment, they have an infusion of high caste men among them; a great part of the army is recruited within the Company's Bombay territories in the province called the Concan; but the high caste men come from the Bengal provinces.

383. Mr. *Hume.*] Have you witnessed any inconvenience from a number of European officers being drawn off from native regiments for staff purposes?—I have.

384. *Chairman.*] How would you form a staff corps?—It could be done in this sort of way; you could form a staff corps by considering the officers employed on the staff as non-effective regimentally.

385. Sir *G. Grey.*] Would you fill up the vacancy of the officer in his regiment?—That ought to be done.

386. Would those officers appointed on the staff corps remain permanently on the staff corps, without any opportunity of returning at a future period to their regiments?—They could have the power of returning to their regiments.

387. If the vacancy of an officer leaving his regiment to be appointed to the staff corps were filled up, how would that officer get back into his regiment?—He might be replaced on the staff by an officer of his own rank from the same regiment as himself. In the event of the latter not being deemed fit for the particular staff situation vacated, an officer already on the staff might be transferred to it, who could be replaced in his appointment by the new man.

388. Do you contemplate as officer on the staff corps being permanently attached to it?—He would lose his prospects in the regular succession in the army if he were permanently attached to the staff corps, unless it were arranged that his promotion should go on; but there is no reason why it should not go on, the same as the Quartermaster-general, the Assistant Quartermasters-general, the Adjutant-general, and the Assistant Adjutants-general, and the Commissaries and Assistant Commissaries.

389. Mr. *Hume.*] Have you ever seen the plan submitted by Lord Hastings to the Government of India, for establishing a staff regiment in order not to draw off the European officers from their regiments as is now done?—I was never away from Lord Hastings for nine years, but I do not recollect anything of that kind; but it may have happened.

390. Sir *J. Hogg.*] When the army is ordered to go on service, the officers detached from their regiments on staff appointments always rejoin their regiments?—Almost always.

391. Sir

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391. Sir *G. Grey.*] But the vacancies so made are not filled up in that case?—No, not permanently; other officers are appointed to act in their absence on service.

392. Mr. *Hardinge.*] Would your plan enable a colonel at a future period to rejoin his regiment and take the command of it, after having been for years in a political appointment?—Instances have occurred of lieutenant-colonels having been in political appointments for a series of years, and afterwards returning to their regiments; and, if thought fit, such might be continued.

393. Would you recommend that officers should be enabled to do so?—A man who is for a long time in a political appointment, in fact, gets out of practice. It is like an officer being for a long time on half-pay, the man gets what I call rusty; he does not know the rules of the service that have passed since he has been absent, unless he is a very industrious person, and watches those things. But as to handling troops after a man has been away for several years, he makes a very poor appearance on the parade.

394. Sir *T. H. Maddock.*] Would it not be a still greater disadvantage that if he were a captain he would be ignorant of all the men of his company, and if he were a lieutenant he would know nothing of the men under his command?—I think that is a thing that would be so soon got into again, that it does not strike me as a difficulty.

395. Sir *C. Wood.*] Would that objection be removed to a considerable extent if there were more European officers attached to each regiment?—Certainly if the regiments were increased in officers, it would add to their efficiency. I have looked into the East India Register, which is the Army List for all India, and I see that there is at this moment one Bombay regiment without a captain at all.

396. Would that plan give a greater choice of officers for superior employment than would be given by the formation of an exclusive staff corps?—Yes, it would; if you increased the number of officers at present, it would, of course, render the portion required for the staff much more easy of supply, and be far preferable to a staff corps.

SUGGESTIONS

By Lieutenant-General Sir *Thomas M'Mahon*, Bart., K. C. B.

In obedience to the desire of the Committee that I should make any suggestions I deemed likely to contribute to the efficiency of the army, I beg, with reference to Questions numbered 383, 384, 385, 386, 387, and 388, to offer a strong recommendation that some means may be resorted to to remedy the great evil at present so justly complained of, of the want of European officers with the native regiments of the regular army in India.

It is requisite first to observe, that the full complement of officers belonging to each native regiment is just half what is allowed to Her Majesty's corps serving in India; the former consisting of 24 only, the latter having 48. And this proportion even is but nominal, as from the Company's regiments the average number detached on staff and other duties is more than six, while there are absent on furlough and sick certificate nearly five, leaving with each of all grades for the performance of regimental duty, including those in sick quarters with their corps, on temporary leave in India, and detached duty, about 13 officers, of whom nearly one-third are of the junior grade of ensign.

In my answer to Question 384, I have ventured to suggest as one plan of correction of this state of things, that officers employed on the staff should be considered non-effective regimentally; and in the two subsequent answers, that they should be permitted to remain on the strength of their regiments, and their promotion to advance, and that the effective regimental officers should be also promoted.

With a view to assist in the very desirable object of providing as many officers as possible for regimental duty, another arrangement might be to permit officers to be appointed only to such staff situations as are properly and immediately connected with the army, and at the same time to send back to their regiments those who are now employed on miscellaneous duties totally unconnected with the service, which latter could be conferred on uncovenanted servants.

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But the simplest and most efficient mode of dealing with the evil complained of, would, I humbly conceive, be to increase the several grades in each regiment of the Company's army, say to the extent of one major, two captains, and two subalterns, with such prohibitory orders to the local governments as would effectually put a positive limit to their demands for officers for non-military employment. This increase will doubtless be objected to on the score of expense, but that difficulty will have to be encountered in any course that may be taken; for it must be borne in mind, that if many of the situations now held by officers of the Company's army were to be bestowed upon uncovenanted servants, they would probably have to be paid much larger salaries than those which officers get in addition to their military pay.

The latest returns from the army of Bombay show as follows:—

Total officers of the 29 regiments of native infantry - -		696
Absent: Staff, military, and civil departments -	130	
Non-military duties - - - -	53	
Total absent on the staff - - -	183	
Sick, and on furlough to Europe - - - -	133	
		316
Remaining for 29 regiments, including sick within the limits of the Presidency, and on leave of absence -		380

Classed as follows:		Averaging with each Regiment.
Field officers - - -	24	1
Captains - - - -	64	2
Lieutenants - - -	166	6
Ensigns - - - -	126	4
	380	13

Note.—The above statement has been compiled from an Army List published under the authority of the Bombay Government, dated 10th of January 1853.

Thos M'Mahon, Lieut.-General.

Lunæ, 28° *die Februarii*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir R. H. Inglis.
Sir Charles Wood.	Sir James Hogg.
Mr. Hardinge.	Mr. Edward Ellice.
Mr. Cobden.	Sir George Grey.
Sir T. H. Maddock.	Lord Stanley.
Mr. Elliot.	Mr. Hume.
Mr. R. H. Clive.	Mr. Lowe.

THOMAS BARING, Esq. in the Chair.

Lieutenant-General Sir *George Pollock*, G.C.B., called in; and Examined.

Lieut.-Gen. Sir *G. Pollock*, G. C. B.

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307. *Chairman.*] IN what year did you enter the Indian Army?—In 1803.

308. Will you be kind enough to give the Committee a statement of the appointments which you held in India?—I was first appointed quartermaster of a battalion, and then adjutant-quartermaster; then brigade-major to the regiment, and then assistant adjutant-general to the regiment of artillery.

399. Having

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399. Having been much engaged in very important military operations, you have had great opportunities of forming a true estimate of the character of the native army; the Committee will be glad to hear your opinion of their efficiency in the first place in the field?—I think they are highly efficient in the field.

400. You have seen the Bengal native troops also in quarters; is their discipline such as you approve?—Quite so. I had opportunities of judging of that from having commanded a district, and also a division of the army in cantonments.

401. Are the equipments of the native troops efficient?—I think they are; especially since the recent improvements in the muskets.

402. Are the guns and the other materiel of the army equal to those of the Royal Artillery?—I think they are. I would say with regard to the artillery, that I think there ought to be a greater proportion of batteries horsed than there are now; they are drawn a great number of them by bullocks; I think bullocks are objectionable; I would recommend the whole of the foot batteries to be drawn by horses.

403. Are the magazines in India kept amply supplied with military stores?—I should say that they are so far as the Government is concerned. There are certain rules laid down by a Select Committee as to the quantity of stores and ammunition that every magazine ought to have. I am not sure they always have that quantity. For instance, at Kytul, there was an affair in which our troops were a little pressed, and they required troops to assist them immediately; and when they inquired, it was found that there was no small arm ammunition in store. That was of course an error on the part of the person who commanded at the place; but generally speaking, there are proportions laid down by the Select Committee, which, I believe, are attended to.

404. How was that an error on the part of the person who commanded at the place?—He did not see that the proper number of stores was in the magazine; I believe it was Kurnaul or Ludeeana, or some place up the country.

404*. Had he full power of increasing the quantity without reference to the Military Board?—No; but if he had indented for it, of course it would be supplied.

405. In that case it was his fault, not the fault of the Military Board?—I should think so; though the Military Board might have found out the deficiency by looking at the returns.

406. Sir *C. Wood*.] It would be his duty to see that the corps under his charge was fully supplied up to the complement?—Yes.

407. *Chairman*.] Are the native artillerymen, in all respects, good and trustworthy soldiers?—Certainly.

408. Has there been any falling off of late years in their quality?—I do not think there has.

409. Where are they chiefly enlisted?—Some are enlisted in Bengal; but at Cawnpore, they come in from Burelly, Lucknow, and various places in the Upper Provinces.

410. Having served very much with European artillery, you have had experience in their barracks; are they such as you would approve of for your men?—Some barracks of late have been built with pucka roofs, and very excellent barracks they are; barracks that have been formerly built were frequently of thatch, and I think thatch is preferable to the pucka roof, because the sun does not strike upon it so strong; but they would be improved by raising the verandah a couple of feet higher.

411. Sir *J. Hogg*.] What does pucka mean?—The pucka roof is a flat roof with no grass over the top, and I think they are objectionable; I think that the grass protects the men from the sun better than the pucka roof.

412. *Chairman*.] Has there been a new regulation that the barracks shall be built with the pucka roof now?—I do not know; I think they still continue to build them with the thatch of grass. If the verandah were raised higher, I think they would be preferable to the other building; but some improvement is wanted with regard to the married people. They take up room in the barracks and prevent proper circulation of air; sometimes where the barrack is not made for married people they put up partitions which greatly prevent the air circulating; the custom is very objectionable.

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413. In general do you consider the barracks to be very well ventilated?—I think they are.

414. And generally high enough?—Yes; there are a great many pucker barracks in the country; at Jelalabad, at Cawnpore, at Dinapore, at Fort William, and at Dundrum, and at Chinsurah in the Bengal Presidency.

415. Is every care taken of the health of the troops?—Every care. They have baths both for the men and the women; they construct baths wherever it can be done. The greatest possible attention is paid to the troops in the hospital: they have tatties by which the men are kept cool, and they have punkahs (fans), which are pulled over the Europeans who are sick; and they have ice given to them when desirable.

416. Besides an increase of horses in the artillery, are there any other improvements in the artillery which you would recommend?—I think there is a deficiency of officers. Lately at Peshawur three companies of Europeans were under the command of a very young second lieutenant. But that may have been in consequence of bad arrangements in India.

417. Does that deficiency apply more to the artillery service than to other native regiments?—I cannot say, but I think there is a deficiency of officers in all the branches.

418. Do you think that deficiency of officers has been productive of injury to the service?—It is impossible for one young second lieutenant to command three companies of Europeans; that is, perhaps, a solitary case, but still it was the case in that instance.

419. Is there any other mode of obviating that difficulty than by an increase of officers?—I should think there is no other way of obviating it than by either increasing the number of officers, or keeping them strictly with their corps.

420. Are the regulations of the Company, as to the number of officers, strictly adhered to?—Yes, I believe so. In that instance at Peshawur, it may have been that the officers had left through sickness, and so had left this young man to himself. I cannot say how that was; I merely speak of the fact.

421. Would the best way, in your opinion, of remedying the evil, be by an increase of the number of officers attached to each regiment, or by having a staff corps?—I think a staff corps would remedy the evil immediately.

422. Have you any idea what the expense of that would be?—I have not the least idea.

423. That staff corps would not consist of officers attached to any particular regiment?—No; when an officer went to the staff corps he would be struck off the regiment, and another officer appointed in room of him. But I do not quite understand the nature of a staff corps. There is a staff corps, I believe, attached to Her Majesty's service.

424. Have the drafts for the staff corps for civil employment been equally divided amongst the armies of the several presidencies; or has the army of one of the presidencies had fewer staff appointments than another?—That I cannot say; but they certainly have some from each presidency. At present there are officers from the Madras army serving in the Punjaub and in the upper provinces of India; but generally speaking, for the appointments in Bengal, they have taken Bengal officers.

425. Has the Madras or the Bombay army more officers with its regiments in proportion than the Bengal army?—That I cannot say.

426. Staff appointments are objects of ambition to the officers?—Yes. With regard to staff appointments it is quite clear that an officer, in going out to India, does not look to his regiment for employment; he looks for a staff appointment, and the consequence is, it is injurious to the regiment; he cares little about the regiment; his object is to get a staff appointment.

427. When officers who have held staff appointments return to their regiments, in the case of their regiments being required for actual service, have you had opportunities of remarking whether their efficiency was diminished?—I think it must be diminished. I remember an instance of an officer returning to his regiment when he was a lieutenant-colonel; the Marquis of Hastings went to the parade to review the regiment. The officer told him that he had not been on parade for 20 years, and that the major would manœuvre the regiment, and he did it.

428. What course was followed with regard to that officer?—The Marquis removed him to another regiment the next day.

429. In

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429. In staff appointments you include political appointments?—Yes, I include all appointments.

430. And commissariat appointments also?—Yes.

431. Sir *C. Wood.*] You include all appointments in which military men are placed, excepting regimental ones?—Yes.

432. *Chairman.*] You state that officers, when they come out to India, look to those appointments rather than to promotion in their regiments?—Decidedly.

433. And you see no way of correcting that but by an increase of officers, which would involve very great expense?—Yes.

434. With regard to the furlough system which now exists, would you recommend any alteration in it?—I cannot see why an officer should not come home as well as go to the Cape. He takes two months to get to the Cape, and he takes one month to come to England; but I think it would require great care in drawing up the regulations, otherwise it is very liable to be abused. But I think there can be no objection to their coming to England.

435. Are you speaking of furlough or of sick leave?—I am speaking of sick leave to the Cape.

436. Are those sick leaves abused?—I am not aware of cases of abuse of sick leave. I dare say there may be cases; but I am not competent to speak to that.

437. With regard to furlough, would you allow a furlough to be obtained before 10 years' service?—I think if the three years' furlough were divided equally among the 21 years, or the 24 years, it would be better than letting them come home after 10 years' service.

438. With the improved means of travelling, three years at one time would not be required?—No; they might come home at three different periods: say, after six or seven years, or somewhere thereabouts; and then again at 14 years, I would give them three years, so that they might be taken at three different periods.

439. Would that be of advantage to the service?—I think it would be of advantage to the service, because a person would be in better health, and he would go back in better spirits altogether; he would be improved by coming home; I think his ideas would be enlarged by coming to England, and it would be a satisfaction to him; and I think the service would be benefited by it.

440. Would you put the privilege of sick leave upon the same system as is enjoyed by the Queen's army with respect to retaining staff appointments?—I know two instances in Her Majesty's service where the thing was done without hesitation: Colonel Churchill, in the one case, the quartermaster, came home and went back to his appointment, and I think Colonel Havelock did the same; but it would require to be strictly guarded to take care that it was not abused.

441. Mr. *Ellice.*] At present, a gentleman going on sick leave, if he goes to Australia or anywhere eastward of the Cape, on going back resumes his appointment; but if he goes to England, and is only absent for the same time, he loses his appointment?—Yes.

442. Do you see any reason for that?—No; except that I believe the Act of Parliament prohibits his coming to Europe.

443. Do not you think that a person who goes to Australia or to the Cape of Good Hope, or to the Mauritius, for his health, loses the whole of his time, except as regards his health?—Yes.

444. Whereas if he comes to England he is likely to be benefited by seeing European society and the habits and customs of this country?—Yes; and not only that: but if a person goes for two years to Australia, before the two years are expired he must take measures to get back again; sometimes he cannot get a passage back from Australia under nine or ten months. Now, in England, if anything called for his services in India, he would be back in a month or six weeks; he is always to be found, and can always get back.

445. *Chairman.*] A system prevails in India of the officers in a regiment making up a purse to procure the retirement of the senior officer; has that system worked well, in your opinion?—I think, as far as the senior officers are concerned, it works well; they are either unable or unwilling to do their duty, and they are glad to get the money and go out of the army. But it is carried

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further than that, and it is now practised among younger men; I think many of them get a sick certificate who really do not deserve it; I have seen many of them; I know instances of it. There are some in England now, who are in hale health, who have got a sick certificate to say that they are not able to perform the active duties of their employment. Some get a sick certificate, and they go to the hills and draw the pay, and, I think, the batta of their rank; there they remain in the hills, some of them in very good health; I have seen many instances of it.

446. Has any other mode of correcting that abuse occurred to you than that of greater strictness as to sick certificates?—I think every officer under those circumstances ought to appear before the Medical Board; sometimes they are a little unwell and they take medicine which produces irritability, or fever, or a bad appearance, and they get a sick certificate, but I believe many of them are quite able to do the active duty of their profession.

447. Could any change in that system be adopted which would correct the evil which you mention without interfering with the senior officers likewise?—I do not know, unless it was confined to officers of a certain rank.

448. Does not the promotion which thus takes place by seniority extend to all the officers in the regiment?—Yes, but I have known many young men invalided in that way when it was said to be in consequence of their not being able to perform the active duties of their profession; and I have seen them a very short time afterwards perfectly well.

449. Mr. *Ellice*.] No person can come home on sick leave unless he has been examined by a Medical Board?—No.

450. Are the certificates to which you allude, certificates to go to the hills? —They go to the hills from the upper provinces, and the report is sent down to the Medical Board; but I have seen many of them who are as capable of doing their duty as I am myself.

451. But when they come to the presidency for embarkation are they examined by the Medical Board?—They do not embark; they go to the hills, and there they live and get their pay and their batta.

452. They are not subject to any further examination during the time that they are in the hills?—I think not, beyond what the doctor gives them at the time.

453. Do you think that periodical examinations during the period that they are at the hills would be of advantage?—I do not know about periodical examinations, because they have left their regiments.

454. Sir *T. H. Maddock*.] You are speaking of officers who are removed from the strength of the army and are placed upon the invalid list?—Yes.

455. *Chairman*.] The Committee have had some observations made to them as to the imperfect state of the commissariat; do you coincide in opinion that it is not in a satisfactory state?—I do not think it is.

456. Can you suggest any mode of improving it?—The only thing I can suggest is the employment of a certain number of respectable serjeants; I would have one with every regiment, and whenever a regiment comes to the ground, he and the Quartermaster should see all the animals fed. They are not fed; the Government pay for the feeding, and the native agent pockets the money.

457. You mean that that person should be an European?—An European.

458. Do you consider the Military Board to be upon an efficient footing?—I would rather that there should be no Military Board at all.

459. To whom should the reference be made in that case?—There is a Commissary-general for the commissariat department. I do not know that I can suggest anything just now; but I think the Military Board delays business, and I think things are not properly done by the Military Board. As an instance, when I was at Peshawur, I went to visit the hospitals; I found some of the men outside the tents; upon inquiry, I found that the officer had indented for more tents, but could not get them; I asked him the reason, and he told me that the Board had replied to him that the number of tents for the company was so many, and although the number in a company was increased from 80 to 100, as the number of tents was for a company the company must get into the tents; of course I represented it, and it was altered immediately; but that is the way in which the Board conduct the business.

460. To whom did you represent it?—I forget whether it was the Commander-in-Chief

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in-Chief or the Governor-general, but it was to one of them; it was remedied immediately.

461. Could the service be carried on effectively without a Military Board?—I think it might, but I am not prepared to say how.

462. Looking to all the circumstances of the Indian territories, do you consider the number of troops now maintained in India, as well as the establishment, to be more than is necessary?—Certainly not.

463. Do you consider it to be sufficient for all purposes?—I hope it may be; but there is a very large tract of country, and if the territory which is now added to it is to be ours I should think that more troops must be raised.

464. Do you consider the present proportions between the Queen's troops and the Company's European troops, and the native army, to be the proper proportions?—I have not thought of that.

465. Would you recommend a reduction of the Queen's troops as they are now?—I cannot say; it depends so much upon the state of the country; there is a great number of troops now; I think there are 9,000 more than there used to be; but we have acquired a great deal more territory, and now you want more European regiments.

466. The Queen's forces are now 29,480 men; that does not seem to you too large a number to have in India?—No, I do not think it is, considering the extent of territory we have.

467. And the Company's European troops are about 6,000?—Yes.

468. Does that appear to you to be enough?—I should like to see more Company's troops, certainly.

469. Do the two services act in perfect harmony?—In perfect harmony; both natives and Europeans act in perfect harmony.

470. No exchange of service is allowed between the Queen's troops and the Company's service?—No.

471. Would it, in your opinion, be desirable to allow an exchange of service from one to the other?—No, I think it hardly desirable to exchange from one to the other.

472. Are the native troops perfectly satisfied with their present treatment?—I think they are, but I do not think the younger officers pay that attention to the native troops that they ought; I do not think they associate with them in the way that they ought. Formerly they used to attend their little ceremonies, their hoolies, and their mohurrums, and so on, and to mix with them; and the men were fonder of their officers than they are now, I think.

473. But you consider the native force as efficient?—Quite efficient; and if properly treated, I think they are almost equal to any troops in the world.

474. Should you consider them efficient if opposed to Europeans?—I think so, if properly treated; but we must have officers who understand them, and their religious prejudices must not be tampered with. I think as long as they are well treated they will go anywhere.

475. Is there any other suggestion that you think it desirable to make to the Committee?—I do not recollect any.

476. Sir *J. Hogg.*] When you were in India, I believe the departments of the Commissariat and Public Works were both under the superintendence of the Military Board?—They were.

477. Are you aware that commissions have been appointed by the present Governor-general, and that since the report of those commissions the departments of the Commissariat and of the Public Works have been withdrawn from the control of the Military Board?—No, I was not aware of that; but I think it is a very desirable thing.

478. Are you aware that the present tendency in the public service in India, both in the civil and military departments, is to substitute individual responsibility for that of Boards?—I was not aware of that; but I think it is very desirable that it should be so.

479. You spoke of an officer being invalided. I believe that if an officer is at a Presidency, he cannot be invalided except upon the report of the Medical Board?—That, I believe, is the case.

480. And that if he is in the interior of the country, a special Medical Board, consisting of three officers, is assembled for the occasion, and they must report him unfit for public service before he can be invalided?—I do not know exactly all the routine; I only know the facts, that I have seen officers, I suppose twenty

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twenty years younger than myself, hale and robust; and six or eight months afterwards I have found those officers invalided, as being incapable of performing the active duties of the service.

481. And it is your opinion (which, I believe, is not a peculiar one) that there is a great deal of laxity in India in granting medical certificates?—I certainly think there is.

482. You spoke of the artillery not being sufficiently officered: are you aware that, within the last six or eight months, a captain and a subaltern have been added to each brigade?—I was not aware of that; I heard that a captain had been added, but nothing else. My evidence was given without reference to that, for I had not adverted to it; I merely heard that as a report.

483. You spoke of a deficiency of stores at Kytal; now I believe that at Kytal there was no magazine there?—No, there is no magazine.

484. But I believe there was one within a moderate distance. Is not Delhi within about 50 or 60 miles distance?—Kurnaul, I believe, was the nearest station; either Kurnaul or Loodeeanah. The detachment which was to go to the relief of the Kytal force could not march under three days; it was then that they found that they had no surplus small-arm ammunition.

485. In fact it was a mere detachment, without a place having a magazine?—It was a detachment.

486. With regard to the difficulties respecting sick leave, to which you have adverted, is not the difficulty one that can be remedied only by a statute; does not the Act of Parliament prevent any officer holding his appointment when he leaves what are called the "Indian limits"?—Yes; it can only be remedied by Act of Parliament.

487. Mr. *Hume*.] You said that the army must be increased if new territories be added; did you mean Pegu, or what did you allude to?—I had reference to Pegu; I thought that, if any increase of territory was made, we must increase the army; but with regard to the rest, it is a matter, I think, more for the Governor-general and other persons in power.

488. In speaking of the European troops, have you in the course of your service formed any opinion how far the number of Europeans in the Company's service should be increased or decreased, in proportion to the number of the Queen's?—No, it never occurred to me. I did not know that there was any particular number laid down for the Company's troops.

489. My question has reference to the present establishment, whatever it is. As the Queen's troops are relieved, and the Company's are not, have you formed any opinion on this subject of the advantage or disadvantage of having a greater number of troops that do not receive relief?—I think that the Company's troops are just as efficient as the Queen's troops in every part of India. You will find very few of the Queen's regiments leaving India, in which the great majority of the men would not be glad to be transferred to the Company's service.

490. Then if the Company's European troops are equally efficient with the Queen's, would it not be economical to have a larger proportion, so as to lessen the expense of reliefs which now takes place in the Queen's troops?—I should say decidedly so. You cannot have more efficient regiments than the Company's European regiments are.

491. What do you mean by the expression, "if the native troops be properly treated." Is it your opinion that attention is not paid by the junior officers to the native corps, by acquiring a knowledge of their language and other means?—I do not refer to a knowledge of their language; but they do not treat them with that kindness that formerly was the case with the native corps. My opinion generally with regard to the native regiments is this: that whenever anything goes wrong, whenever there is anything like a discontent or a mutiny, or something less than that, there is always blame to be attached in some shape or other to the officers.

492. You recollect that when Lord Hardinge went to India, there were disturbances, almost mutinies, in several regiments at the different Presidencies; do your observations apply to the causes of those disturbances?—I do not recollect what they were.

493. Sir *J. Hogg*.] Are you aware that the number of the Company's European troops is limited by statute?—No; I was not aware of that.

494. Mr. *Hume*.] Seeing that the Company's European troops have arrived at

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at the maximum allowed by the Act of Parliament, is it your opinion that it would be wise to leave a discretion with the Company to increase the number of their European troops?—I should say yes, decidedly.

495. Are we to understand that it is the case with the Europeans generally, in the Queen's regiments, that, when relieved, the greater portion of them would rather remain in India than come to England?—I knew that to be the case formerly; but I do not know now. I believe there is some regulation which prohibits their going into the Company's service. I believe the feeling of the greater part of them was, that they would like to remain in India.

496. Do not you consider that, when the Queen's troops are relieved, those who wish to remain, and are fit for duty, should be allowed to stay in India?—I would rather have recruits from England, because you would get old men; and when you have a regiment of dragoons, for example, going home, you have no place for them to fill.

497. Having observed the discipline of the European troops of the Queen and of the Company, is it your opinion that the Company's troops are equally disciplined and efficient with the Queen's troops?—Quite so.

498. With regard to the opinion which you expressed respecting having one single commissary rather than the Military Board, are the Committee to understand that, generally speaking, you prefer individual responsibility to that of Boards?—I do certainly.

499. In all matters?—In all matters.

500. Will you state the advantages which you think would arise from that; is expedition one?—Expedition is one. I think that there is considerable delay in getting anything through the Military Board.

501. Generally speaking, you want to attach greater responsibility to what is done?—Yes.

502. You were asked respecting invalid officers; what becomes of invalid European officers in India?—They live in the hills generally.

503. Do not you consider that the circumstance of their being allowed to live where they please, forms a great inducement to them to get themselves put on half pay?—I think it is.

504. You are aware that the privates who live at Buxar and Chunar are never invalided but after long service?—Yes, very long service.

505. If the officers were ordered to do duty with those privates, do you think it would put a stop in a great measure to that practice?—I think it would.

506. Mr. *Elliot*.] In the case of an officer who is *boná fide* invalided on account of really bad health, would not the sending him to Buxar or Chunar, and keeping him there, in all probability shorten his life much more than if he were allowed to go to the hills?—It might; but if he were invalided and came to England, still I believe he would receive pay; he might be required to remain in England; but, of course, if he were to go to Chunar instead of going to the hills, it might shorten his life.

507. Would there not be very little hope of his recovery at Chunar if he were in very bad health?—Yes.

508. Whereas if he went to the hills he would have an opportunity of being in a fine climate, and he would have a possibility of, in a great degree, recovering his health?—Yes; the most glaring case of an officer being invalided who was perfectly well, was that of an officer who, after passing a considerable time in the hills, and being master of the ceremonies at all the balls there, came down to Calcutta to take the superintendence of a bank; and, after attending behind the scenes at the theatre a considerable time, and enjoying all the amusements of Calcutta, he blew his brains out, and there was an end of him; but he was one of those officers who had actually been invalided for being unable to perform the active duties of the service.

509. Mr. *Hardinge*.] Are not those instances very rare?—The finale of this man is rare; but I think the other is not rare; I think it is very frequent.

510. What is your opinion of the horse artillery in India; is not it very efficient, and quite an indispensable arm of the service?—Quite so.

511. Was not Sir Walter Gilbart enabled, by the rapidity with which the horse artillery moved, to follow up the pursuit of the enemy, after the battle of Guzerat, and to prevent their breaking down the bridge at Attock?—Yes; he had two batteries with him, one a nine-pounder, and the other a six. With the nine-pounder he could not follow up so quickly as he wished; he was obliged

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to go on with the six-pounder battery, and travelled as quickly as the cavalry.

512. Are there any troops now in Bengal on the detachment system: you recollect the experiment that was made of the detachment system?—I recollect the experiment being made, but I do not recollect how it terminated.

513. Do you think the number of horses now in a troop is sufficient?—I do not know how many there are; it is 14 years since I have been with the regiment.

514. Do you think that the calibre of the guns is sufficiently heavy?—Certainly, for the horse artillery.

515. You are aware that they are lighter than the guns of the Royal Artillery?—I do not know what the calibre of the Royal Horse Artillery is; whether they are six-pounders.

516. You recollect the establishment of the elephant batteries?—Yes.

517. What is your opinion of their efficiency, for the purpose of bringing the heavy guns?—I think they are very efficient. We never ought to go into action with the enemy without having 18-pounders, very heavy metal, because they always bring very heavy metal against us; and those guns should be conveyed by elephants.

518. Are you aware that, during the Sutlege campaigns, the heavy guns were brought into action by elephants?—Yes.

519. Are you aware that, at the siege of Kote Kangra, the elephants drew those 18-pounders up very steep hills, and that that was the cause of the garrison surrendering without firing a shot?—Yes.

520. With regard to the commissariat, do you recommend that there should be European contractors?—No; I do not think you would be able to do that; but I think there should be more European superintendence; I think that in every native regiment there should always be a man to see the animals fed. We lose more by the animals being deprived of their daily food than by anything else; and the man who saw the animal fed would also see that he was not overloaded.

521. In your advance upon Cabul did you not pay for provisions which you never received?—Which I suspect we never received. The animals used to come to the ground at a very late hour, and were sometimes not fed at all. Of course I did not see the accounts of the commissariat, but I dare say the man charged the commissariat officer for it, and that he was obliged to pay it, but there ought to be somebody to see whether the animals are fed or not.

522. Do you think that in the Bengal army there is too high a proportion of high caste men and not enough low caste men admitted?—No, I do not think that; for my part I never wished to have any low caste men. I commanded a battalion of native artillery about seven years, and I never asked what a man's caste was, but if he was a man of low caste I did not enlist him; a man that sweeps the house is a Hindoo, but he is not a man that I would entertain as a soldier.

523. Is there not this advantage in low caste men, that they will do as they did at Moultan the other day, where they worked in the trenches; whereas the high caste men in the Bengal army refused to work in the trenches?—I never had any men who refused to work in the trenches. At Jelallabad they worked in pulling down buildings; the Europeans and natives all worked together; I never heard any object. I do not believe that if they were properly treated they would object to do anything that did not militate against their religious prejudices.

524. You do not think that the sepoys of the Bengal army have any thing to complain of as regards their allowances and the boons which have been conferred upon them?—I do not think they have.

525. Their marching batta always covers their expenses?—Yes.

526. When the price of otta exceeds 15 seers the rupee they get a money ration?—Yes; there was an order during Lord Hardinge's time about the hutting-money.

527. With regard to promotion by seniority in the Bengal army, is it not often the case that a non-commissioned officer is passed over, and a junior appointed because the senior cannot write?—Yes; and from what I have had an opportunity of knowing, I think it is a very proper rule. A man cannot do his duty unless he writes; I think, generally speaking, there is great impartiality

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ality in the promotion. If a man will not learn to write, he is not fit for promotion.

528. With regard to the numbers of the Indian army, are you aware that it is smaller in proportion to the population of India than any other army in Europe ?—I was not aware of that.

529. Do you think it would be desirable to increase the sepoy's pension for every five years' service after fifteen years' service ?—I do not know what the rule is ; I think it is increased after a certain number of years.

530. Can you suggest any means for remedying the objection which you have made to the state of the barracks, as regards the accommodations of the married men ?—No, I do not know that I can suggest any change ; but in the barrack accommodation provided for the married people, there is something indelicate in having only a little partition put up ; it is a mere piece of cloth that is put up ; that is all thatt he married man has for his privacy. I do not think it is delicate. It might be obviated, I think, by having all the married men together. But that is entirely a matter of local arrangement. I think the commanding officer might always effect it in some way or other.

531. Are there many married men in the army having their wives in barracks ?—Yes ; I think there are.

532. Mr. *Ellice.*] What proportion to the whole number of men ?—I do not think they are limited.

533. What do you think is about the actual proportion ?—I cannot say ; but I do not think they are at all limited ; any of the men may marry if they like.

534. Sir *C. Wood.*] May any number take their wives with them ?—They do not take them when they go on service.

535. But when in barracks ?—They go from station to station, and the wives travel at their own expense.

536. Mr. *Ellice.*] But you cannot state the proportion which the married soldiers, having their wives with them, bear to the single men ?—I cannot.

537. Sir *R. H. Inglis.*] Did you refer to natives or to Europeans in your last few answers ?—To Europeans.

538. Mr. *Cobden.*] You say there is a limit to the number of European troops employed in the Company's service : is there any limit to the number of Queen's troops employed in India ?—I do not know ; but I believe there is an understanding between the Government and the Company as to the number of troops to be employed.

539. Will you explain what advantage there is in having two services ; one portion of the European troops being the Queen's, and the other the Company's ?—I cannot explain that.

540. Is there any advantage, in your opinion, in having two services ?—Not at all, that I see.

541. Would not the European portion of the army be as efficient if they were wholly under the control of the Company ?—I think quite so.

542. Do you think it would be better to have them consolidated ?—As far as my opinion goes, I think it would.

543. Mr. *Hume.*] Would not, in that case, the whole expense of reliefs be saved ?—Entirely.

544. Would not the soldiers themselves be more satisfied than they are now, seeing that you say that when ordered home they would prefer to remain in India in the Company's service ?—I believe the European Company's service are perfectly satisfied with everything that is done for them. The life of a soldier in India is a life of ease and comfort when they are in their barracks ; of course, like everybody else, in the field they must undergo privations.

545. Is the number of European artillery not limited, or do they form part of the 6,000 ?—They form a part of the number.

546. *Chairman.*] In the event of any great emergency arising to require an augmentation of the army, is it not the fact that upon an application from the Court of Directors additional regiments have been sent from England to India ?—Yes.

547. If the Queen's troops were not employed at all in India, how would you provide for a case of that kind ; could you, by enlistment, immediately raise the Indian army to the required amount ?—You could raise an Indian army

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army very conveniently by having depôts at different stations, and employing the existing army in the field; when the army goes into actual service it can very easily be increased.

548. How would you provide for an increase of the European troops in the service of the East India Company?—You could not increase the Europeans.

549. Do you apprehend that any inconvenience would arise from the impossibility of very rapidly increasing the European force in India under any given circumstances which might arise?—With regard to increasing it, of course the troops would have to come from England; and if the Company brought out troops, they could only bring out raw troops, unless they had depôts here.

550. Sir *J. Hogg*.] Are you aware that the number of Queen's troops to be stationed in India is limited by statute to 20,000, and that no number exceeding that can be sent, except upon the requisition of the East India Company?—I have some idea that something of the kind was the case; but now I recollect that there are depôts at which the Company recruit, and the men so recruited are in a very efficient state, I believe, before they go out. If the Company's European troops were increased to, say 20,000 men, the Europeans, of course, at the depôt in England would be increased in like proportion, so that in the event of any emergency occurring they would have several regiments at command immediately.

551. Mr. *Hume*.] In your communications with the Queen's officers have you found them generally to possess a knowledge of the languages of the country?—I cannot say that I have.

552. Are the officers in the Company's troops generally well acquainted with the native languages?—I think they are.

553. Is it not of great importance, that in a country like India, the officers commanding every corps should have a knowledge of the language of the country?—Certainly.

554. Would it, on that account, greatly benefit the service if the Company had the power of increasing their army, so that all the officers should possess an acquaintance with the native languages of the country?—I should think so, certainly.

555. In case of detachments being sent, or other occurrences, taking place in war, when the men get separated from the main body of the troops, are not the Queen's European officers very helpless in holding communication with the natives?—Yes, they are, decidedly.

556. Then your opinion is, that it would be desirable to allow the Company to recruit in order to increase their European troops in India, and that they should always have officers to command them who should become acquainted with the native language?—Yes; I see no reason why they should not be able to send out at any time some thousands of men from the recruiting depôt, because they must recruit for 20,000 or 25,000 men.

557. Sir *G. Grey*.] Do you mean that, in your opinion, a regiment in the Queen's service, in India, is less efficient on service than a regiment of Europeans in the service of the East India Company?—No, I think they are quite perfect; but that the Company's European regiments are quite equal to the Queen's.

558. I understood you to say that you were of opinion that, owing to the comparative ignorance of the native languages on the part of the officers of the Queen's regiments, some disadvantage arose to the service?—But that is only when they come in contact with the natives, which does not often happen.

559. Then, generally speaking, you consider a regiment in the Queen's service fully equal, on duty, to a regiment in the Company's service?—Yes, quite.

560. Mr. *Hume*.] My question alluded to the case of a regiment detached on separate duty. Would not a corps with officers who were acquainted with the language of the country be, in that case, more efficient than they would be without that knowledge of the language of the country?—When sent on detachment, it is, of course, very desirable that they should know the language; the consequence is, that when a Queen's regiment marches they generally attach an interpreter to it.

561. Sir *J. Hogg*.] As there has been very little warfare in Europe, fortunately, of late, do not you think it advantageous that the Queen's troops should

occasionally

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occasionally go to India, as a good field of experience?—I dare say they would fight under any circumstances.

562. *Chairman.*] Are the Committee to understand that you have observed any circumstances which lead you to think that the military service in India would have been better performed if all the European troops had been under the Company's orders?—Not better performed, as far as the duties of the soldier go, but merely as it regards communication with the natives of the country.

563. You have stated that the two services act in perfect harmony?—Complete. I have had several of the Queen's regiments under me.

564. The Committee understand that you have no statement to make as to any injury having arisen to the service in India from the present mixed composition of the whole European army?—Not the least. As far as the duties of the officer and the soldier are concerned, they are perfectly performed; nothing can be better. But when they come into contact with the natives it stands to reason that if they do not know the language they are not equal to an officer who has been 15 or 20 years, or 40 years in the service. So that when a Queen's regiment marches they have always to take an interpreter with them, because they do not understand the language.

565. Sir *T. H. Maddock.*] Under what commissions do the officers of the Company's army act; whether of the European troops or of the native troops?—Under the Queen's commission; and they have the Company's commission as high as the rank of lieutenant-colonel. For instance, I am a lieutenant-general in the Queen's service in India; but I have no commission from the Company as lieutenant-general.

566. Do you pay fees for both commissions?—Yes.

567. How much are those fees?—I do not know.

568. What commissions have the native officers of the native army?—They have commissions of jemadar and soubahdar.

569. From whom do they receive those commissions?—They receive them from the Government. I think it is from the military secretary of the Government.

570. They are signed by the Governor-general in Council in Bengal?—Yes.

571. Can you describe what is the nature of the oath of fidelity taken by the European and the native sepoy?—No, I do not recollect it; it is in the Articles of War.

572. It is an oath of fidelity to whom?—To the East India Company, I think, if I recollect rightly; it is in the Company's Articles of War.

573. Are you of opinion that under any alteration in the administration of the affairs of India in England it would be advisable, or otherwise, that all commissions of officers should proceed from the Crown; and that the troops, both European and native, should be called upon, instead of an oath of allegiance and fidelity to the Company, to take an oath of fidelity to the Crown? —That is a subject which I have never considered; but when I took the oath of allegiance to the Company, I considered myself quite as taking it to Her Majesty.

574. Do you think it would be desirable that the European soldier and the native sepoy should take an oath of fidelity to the Crown, rather than an oath of fidelity to the Company?—I see no advantage in it; the Company's troops are commanded constantly by Queen's officers, and they go wherever they are ordered.

575. What is the meaning of their being Company's troops?—They are paid by the Company.

576. But what is the Company; it is the Government, is it not?—The Government of India. The Government is the Government of the East India Company.

577. Nominally?—Whether nominally or not I believe that every soldier who takes the oath of allegiance to the East India Company feels himself bound to do whatever the Crown may desire to have done in India without a moment's hesitation about it; I thought that by taking that oath I was bound to go wherever I was ordered.

578. Have you ever taken into consideration the comparative merits of the regular native cavalry of Bengal, and of the irregular native cavalry?—I have seen them both on service, and I have seen them both behave exceedingly well.

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We had an instance of the 2d regiment of regular cavalry that did not behave well. But then, on the other hand, we had an instance of the 9th regiment at Meanee almost saving that action by the gallant charge which they made; and we had the 5th cavalry, I think at Naghpoor, performing wonders with only a squadron or a troop; during the time of Lord Lake I never saw better men than they were.

579. The simple object of my inquiry is whether it would be desirable to increase the number of one of those branches of the service, and proportionably to decrease the other branch?—I do not think I am competent to speak about that, because I have never seen much of the irregular cavalry. But speaking of them without knowing much about it, I should think they have too few officers with them. There is a complaint of the want of a sufficient number of officers with the native regular regiments, yet there are irregular regiments raised with only three officers to them.

580. With reference to an answer which you gave, that in consequence of the absence of officers on staff employment there is a deficiency of officers in the artillery, are you aware whether officers are allowed to be absent from the artillery in the same ratio as compared with the whole number of officers in the corps that are allowed to be absent from the cavalry and infantry?—Yes, I believe they are allowed to be absent, but I do not know in what ratio: but there are a great number absent generally.

581. But they are not allowed to be absent in anything like the same ratio that is allowed in the cavalry and infantry?—I believe not; but I do not know what the proportion is.

582. Having been a member of Council, you must be aware how very averse the Government always is to allow artillery officers to be absent from their corps upon staff employment without necessity?—I am aware of that; and I believe that there are some appointments even now at this day that they would not give to an artillery officer, merely on account of his being an artillery officer; but I think the custom is absurd.

583. You have spoken of sick leave being granted to officers of the army, and of their being allowed to invalid without sufficient reason, in consequence of the laxity which is often evinced by the medical examiners; can you suggest any remedy for that evil?—No; if a man is not fit to perform the active duties of his service, it is very natural that he should go before a committee; but some practice duplicity, and the doctor is taken in and gives a certificate. I do not know what remedy you can apply to it. I know that among the younger branches of the service there are many officers at large who are quite capable of doing their duty, but they have been invalided; but how it is to be stopped, I cannot say.

584. You have spoken of the inefficient control of the Commissariat department, do you attribute that to inefficient superintendence on the part of the European commissariat officers?—No; I do not know that I can attribute it to that, but it is owing to the character of the natives who are employed. As an example, I may mention a circumstance which occurred when I was at Jellalabad: A native came to Major Thompson, and offered him two lacs of rupees, 20,000*l.*, if he would put him into the situation of gomashta, although at that moment it was not known whether I was going back or going forward; and if I had gone back, I suppose his appointment would have been at an end in a couple of months.

585. Are the officers of the Commissariat Department selected for that employment in consequence of their being well versed in accounts?—No, I cannot say that.

586. Do you suppose that they can be a match for the native dealers and gomashtas in the matter of accounts?—The accounts will probably be in the purchase of grain. If you require a quantity of grain, you send a gomashta to make the purchase. If it is in an enemy's country, of course he does it by stealth in time of war. He brings in the grain. No European can go where he does; and the consequence is, that he may make any charge he likes.

587. Mr. *Hardinge*.] Are you aware that a commissariat officer now, before he can be appointed, must undergo an examination as to whether he is well versed in accounts and in the vernacular languages?—Yes; and I believe the commissariat officers are quite equal to their work; but the imposition is on the part of the native agents.

588. Mr.

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588. Mr. *Hume*.] You were asked whether it would be desirable to change the oath, and that the Government should be administered in the name of the Queen; did you not find that the sepoys, as well as the native officers, look to the sircars, and those that pay them, as the persons to whom they are responsible?—Yes, they do; but they are ready to go anywhere.

589. They invariably obey the orders of their officers?—Yes.

590. Believing that the Company pay them they are faithful in their service?—Yes.

591. Lord *Stanley*.] Have you any personal knowledge of the Madras army?—Very little; I have served with them in Burmah.

592. But you are aware, as a matter of fact, that the Madras army, as compared with the armies of Bengal or Bombay, has been very little employed upon active service?—Perhaps not, but they are now employed in Burmah; and they were employed in the last campaign in Burmah, and they were employed also in China, with very great credit to themselves.

593. But although part of the army was employed in the last Chinese war, and is employed in the present war with Ava, still is it not the fact that, as compared with the armies of the other two Presidencies, the Madras army has had very little to do in active service?—I think so.

594. Is it not also the fact that the Madras Presidency, and Southern India in general, has been very free from disturbance?—It has not been free from disturbance altogether; I think there was an instance of a fort, where the consequences might have been very serious if the thing had not been discovered in time.

595. Is it or is it not your opinion that the military force now employed in the Madras Presidency can be safely diminished?—I do not think I am competent to judge of that; perhaps if you were to reduce it you would find a few difficulties; there might be a rising in some places; but I do not know much of the Madras Presidency.

596. We have had it stated by a former witness, that when men of the highest caste were enlisted in the native army, they were apt, on account of their caste, to acquire influence over the other men, and that that influence was sometimes dangerous to discipline; did you ever find that to be the case?—I never experienced that. I have heard it mentioned: but I never experienced it myself. I commanded a native battalion about seven years, and I entertained men of all castes, except the low caste. I never entertained them.

597. As a general rule, the higher the caste of the men you could get the better you would be pleased?—I think the better soldiers they would be.

598. Mr. *Cobden*.] Are they physically stronger than the low caste men?—I do not know that they are stronger, but I have seen a man of the highest caste on parade perfectly subservient to the man who was commanding him, who was perhaps a Mussulman, and after he leaves the parade that Mussulman dare not come near the place where he is feeding; he orders him off, and the man dare not come near him; but on parade he is perfectly obedient.

599. Mr. *Hardinge*.] What is your opinion of the Goorka battalions?—They are very good men indeed.

Colonel *Patrick Montgomerie*, C. B. called in; and Examined.

Colonel *P. Mongomerie*, C. B.

600. *Chairman*.] WILL you inform the Committee how long you have served in India, and what was the last appointment held by you?—I went out to India in 1810, and returned two years ago, after 40 years' service. The last appointment I held was Commandant of Artillery on the Madras establishment.

601. You have had extensive experience of the service, both in peace and war?—I was almost always in the field in the first 10 years of my service, in the Mahratta war and the Pindaree campaign: and I subsequently served throughout the Rangoon war, and commanded the artillery in the China war.

602. You are aide-de-camp to the Queen, in testimony of your services in China?—I have that honour.

603. Having had great opportunities of witnessing the different services of the Madras Army in the field, and their conduct in quarters, what is your opinion of their discipline and efficiency; first of all in active service?—I think it is good, both in the field, and in garrison. I think greater attention has been paid latterly to the internal discipline of corps, and that they are better

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conducted in garrison now than when I entered the service, this internal discipline being more regular: I cannot say that I see much difference as respects field service; I think they are as efficient as ever they were.

604. Then your opinion as to their efficiency is quite favourable?—Yes.

605. There has been rather an improvement than any deterioration?—Decidedly an improvement in garrison.

606. Have the native artillerymen any difficulty in embarking on foreign service beyond sea?—No, I have never seen any; a larger proportion of them are called upon for foreign service beyond sea than of the infantry, in consequence of the small body of native artillery that we have; I dare say they feel it a hardship to be so often called upon in comparison with the infantry, but I am not aware that they have ever shown it. There are six companies in the native battalion of artillery, and two out of the six are constantly on foreign service, whereas in the native infantry the proportion is not more probably than one to ten. I consider the proportion of artillery is too great; but they have never shown any want of alacrity in embarking.

607. Where are they chiefly recruited?—Latterly in the Carnatic. At their first formation a considerable proportion of them were from Hindostan.

608. Are they chiefly high or low-caste men?—Much the same as the infantry, chiefly Mahomedans and Hindoos of the lower castes; there are some Rajpoots, but not many.

609. Mr. *Hume.*] What is meant by foreign service?—In the Straits of Malacca and at Aden: anywhere beyond sea.

610. *Chairman.*] Have you remarked any difference of discipline in the soldiers of different castes?—The best soldiers that I have ever seen are the Madras sappers; they are not high caste, certainly, but they are the finest and most spirited body of native troops that I ever saw.

611. Have you remarked any want of discipline on the part of those of higher caste, or have you known any difficulties to arise with them?—No, I cannot say that I have; I have had no very great experience, except with the native troops of horse artillery, and with the Golondanze Battalion.

612. When those troops embark on foreign service, is there any arrangement made as to provision for their families?—Yes; a family certificate of a certain portion of their pay, is left payable at Madras, or wherever the family is stationed, and provision was formerly made for pensions to the widow, in case the man died on foreign service. There has been a change made in this last regulation, by orders from the Supreme Government, which caused some dissatisfaction. I do not know whether it has been rectified or not; it was considered by the men as an infringement of their rights.

613. Did that occur when you were there?—I am not sure that I was at Madras at the time it occurred.

614. The arrangements which existed previously were agreeable to the native troops, and induced them to embark with alacrity?—Just so.

615. Sir *C. Wood.*] Was not the new regulation entirely prospective, affecting only men who enlisted after that time?—Changes have been made with respect to the pay which were prospective; but I do not think the changes as regards the pensions was so; on the contrary, that it affected every man who embarked for foreign service.

616. *Chairman.*] Does the Madras artillery sustain its high reputation as a most efficient body of troops?—I certainly think so.

617. Is there any complaint of the want of a sufficient number of horses?—We have only two horse batteries at Madras; I think there are 12 with bullocks; but horses are much more efficient for field batteries than bullocks, and there should be more horse batteries.

618. Is there not a school of instruction for the artillerymen?—Yes; for the officers and men at head-quarters. It is called the Depôt of Instruction. It is under a commissioned officer, who instructs the young officers in all matters relating to their duties as artillery men. The non-commissioned officers and privates attend the depôt in certain proportions, and go through a certain routine of instruction.

619. Is that school well conducted?—I consider it so.

620. I sufficient practice maintained amongst them?—There is annual practice for every portion of the corps: ample provision is proposed for this practice by the commandant, and the Commander-in-chief always assents.

621. Is

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621. Is their equipment in guns, gun carriages, and in all other respects ample and of the best quality?—The guns are very good. I think in trying to make improvements in the gun carriages of late years, they have added too much to their weight; they are heavy in draught, and more expensive in making up than necessary.

622. Is the number of officers in the artillery sufficient?—I certainly think that we ought to have more officers for the efficient performance of the duties, particularly captains and subalterns; namely, a third of our first lieutenants are at this moment brevet captains, which involves a service of from 20 to 15 years. Our junior captain is of 23 years' service; something should be done to remedy the depressing effects of such slow promotion.

623. What addition should you think sufficient?—I think the strength of a battalion of officers, and another battalion of native artillery of six companies, to allow of fitting reliefs.

624. That would involve considerable expense, would it not?—Of course it must.

625. Have you any suggestion to make as to remedying this defect, if it be a defect, in a way less expensive than by increasing the number of European officers?—As regards the service generally, I think that officers in the commissariat and in "civil employ," might with advantage be ordered to perform regimental duty, for at least one month in the year, or if unavoidably prevented for, say six months in five years, not necessarily with their own regiment, but with one near them. I see no material objection to this.

626. Instead of giving leave of absence, you would let him go and serve with a regiment?—Yes; and if the Governor-general made it incumbent on each to do it, they would soon find the way of performing this duty.

627. But that would not make them acquainted with their own regiment?—Not with their own regiment perhaps, but it would keep them acquainted with regimental duty. They might be near their own regiment, and so much the better; but that is not essential, I think.

628. How many troops of horse artillery are there?—Six at Madras.

629. Could those, in your opinion, be reduced or not?—I think not; we had double the number at the conclusion of the last Mahratta war; we had then eight troops of eight guns each; now only six troops of six guns.

630. How many field batteries are there?—Two with horses, and, I think, 12 with bullocks.

631. Are the arsenals and magazines at Madras kept amply supplied with military stores?—I think so.

632. Have you had opportunities of seeing bodies of the Royal artillery?—There were two detachments serving in China. The first that came had rockets and some heavy howitzers, but no means of moving the latter. The second came without equipments, and were supplied with guns and ammunition from the ordnance stores brought from India under my charge.

633. Have you had any opportunity of forming a judgment whether the Indian artillery is equal to, or inferior to, the Royal artillery?—My own opinion is that it is equal; but excepting an occasional review at Woolwich, I have not had any opportunity of seeing a properly equipped body of Royal artillery. From what I saw in China, I should say that they had five men, and some of their non-commissioned officers were superior men, such as most likely with us would have been made warrant officers.

634. With regard to your idea that one of the evils arising from the deficiency of officers would be remedied, by ordering each staff officer to have a month's regimental duty in the year, would that plan remove the complaint, that there are not officers enough with the regiments generally?—No; I do not know that it would; but it would serve to remove the disadvantage of officers not knowing their duty when suddenly called to join their regiments on field service.

635. Are there enough officers now on active service?—I think it would be desirable if native regiments had more Europeans with them. I think a proportion of European non-commissioned officers might be attached to each regiment on service in the Burmese expedition; for example, they would be found exceedingly useful in showing that active spirit in difficulties which Europeans possess over natives; I would send, say, two non-commissioned to each company.

636. Sir

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636. Sir *J. Hogg*.] Are you aware that recently two officers have been added to each brigade or battalion of horse and foot artillery in Bengal?—I heard it spoken of the other day, but I did not know that it had been done.

637. Are you aware that the question of the propriety of giving a similar addition to the brigades and battalions in Madras, is at this moment under the consideration of the Government?—I was not aware of it; but I must confess that, considering the backward state of promotion in my own regiment, I should look upon it as most grievous if it were done for Bengal and not for Madras.

638. You think that ought to be done?—Yes, assuredly, for the reasons which I have already given.

639. You said that bullocks are very much used with the artillery, which in the interior is very much the case; but is it not the fact, that on all the frontier stations in all the presidencies, the artillery is served with horses, and not with bullocks?—Not at Madras; we have only two horse batteries at Madras; one of them, when I left India, was at Secunderabad and the other at Mhow.

640. Were those stations which you would regard as frontier stations?—Yes, as field stations, but Nagpoor is also one, and the horse battery was removed from there to Mhow. Saugor is also a field station, and there is none there; in fact we have not sufficient horse batteries at Madras. One of the objects I tried to attain when I was commandant was to get an increase.

641. Mr. *Hume*.] Would you, in fact, reduce the number of bullocks and increase the number of horses?—Just so.

642. Would there be any great difference in the expense, seeing that the number of bullocks required is very considerable in proportion to the number of horses?—I am not prepared to say the exact sum; but I am of opinion that the increase in efficiency would compensate for any difference in expense.

643. You were asked a question respecting the battalions. Is the strength of officers in a battalion of the Madras army the same as in the Bengal army?—Yes, until the regulation which has just been mentioned.

644. Then your observation would apply to the battalions in Bengal and Bombay as well as in Madras, as being too short of officers?—I fancy so. But I spoke of my own corps as at present situated.

645. You were asked respecting the efficiency of the native corps. In China, where you had native corps from all the different presidencies, did you find any difference in any respect as regarded discipline and efficiency?—There was but a very small portion of native troops there at first, a rifle company, and two companies of sappers from Madras, and a battalion of volunteers from Bengal; the Bengal battalion suffered very much from sickness at Chusan. The rifles and sappers were under my immediate command, and both distinguished themselves.

645.* You say that the sappers are the finest men in the service. Have they superior pay to the ordinary soldiers?—Yes, they have a small addition of pay, and are always on full batta.

646. They are, in fact, artisans, and you have an opportunity of picking and choosing better men in consequence of the superior pay that they have?—Not exactly artisans; they were originally pioneers, men who use the pickaxe and shovel: rather miners than artisans.

647. You said that there was a depôt of instruction at Madras. Have you any means at Madras of trying and testing new inventions; new guns or new shells, or anything of that kind?—Every facility is given for that purpose.

648. In what way?—Either officer or man who thinks he has hit upon an improvement, proposes it to the officer at the head of the depôt, who submits it to a select committee of officers; upon their report the commandant of artillery generally recommends it for trial to the Military Board; if it incurs no expense it is done at once, without reference, by the commandant.

649. Are the Committee to understand that all propositions for improvements in the service are submitted in that way to the superintendent of the School of Instruction, and that he gets the assistance of a committee of the most experienced men of the corps?—Yes, regarding ordnance matters.

650. What number of arsenals or depôts for stores have you in Madras?—Ten or Twelve.

651. In

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651. In what way are they kept supplied with stores?—There is a commissary in charge of each arsenal, who indents periodically for whatever is required in his district, both as regards ordnance stores, or for the supply of regiments with small arms, accoutrements, or ammunition. This indent is passed by the Military Board in such proportions as they judge necessary. These stores are dispatched, from the principal arsenal at Madras, by sea or in carts, according to locality, under charge of a warrant officer.

652. Then are the Committee to understand that the Commissary in charge of each depôt indents according to the number of troops within his district, or what rule has he?—There is a regulated proportion of stores for each arsenal, which is supposed sufficient for all ordinary demands. The indent is generally for keeping up this supply, but occasionally there may be other demands, in which case an explanation is sent by the indenting officer. When I was a member the Military Board was engaged in reforming the established proportion of stores in each arsenal; it was fixed for some stations, but I think was not finished for all when I left India.

653. But as the number of troops in each district dependent on each arsenal may vary from year to year, is the indent made according to the strength of the corps to be stationed in that district?—That is generally understood.

654. Beyond what is called the Ordnance Service, for exercise and practice, what store is kept for emergency for the service to fall back upon; is there any rule in that respect?—When I was a member of the Military Board the establishing this supply was under consideration; we did fix it for certain stations; there was an intention of revising the whole, but whether it was finished or not I cannot recollect.

655. Is there not, once a year, a general survey of all the stores, by the Commissary, assisted by the European officers, and is not a return of that made to the Board at the Presidency?—There is an annual survey showing the balances that remain each year, and the deficiencies, and what they consider are unserviceable at each station.

656. What rank does the Commissary at each of those stations hold, and what pay does he receive?—Generally captains of artillery; some are lieutenants; a proportion have risen through the grades of conductor and assistant commissary; they have commissions in invalid regiments.

657. Have they any staff pay as commissaries?—Yes; the highest staff pay is 350 rupees a month, besides regimental pay, and downwards to 200.

658. Who has charge of the arsenal at Madras?—A field-officer of artillery.

659. Do you consider the present system of indents, and supply of the present establishment adequate for the service?—I think so.

660. Does it lead to economy in the stores?—I think so; that is the object of it; to keep them complete without having a superfluity.

661. What power had the Military Board at Madras in connection with the commissary; how does the commissary conduct his service under the Military Board?—He is completely, as far as he is Commissary of Ordnance, under the orders of the Military Board. They give him his instructions and everything regarding the arsenal, and all its supplies, is done direct through the Military Board. The officer commanding the artillery on the station has a controlling power over the guns, ammunition and projectiles under his charge.

662. What is your opinion of the Military Board; is it better, in your opinion, to give the responsibility to a board, or to an individual officer?—I think there is a difficulty in giving so extensive a charge to any individual officer. The Military Board are charged with the ordnance accounts; the audit of the commissariat accounts, and the building and barrack department is also on their hands.

663. Who has charge of the Public Works; under what department is that branch of duty?—The fortresses, bridges, and public buildings, are under the Military Board; works for irrigation and roads under the Revenue Board.

664. Can you offer any suggestions, with reference to dividing these complicated duties, so as to obtain greater efficiency?—I do not know that I am prepared at this moment to say what would be the most efficient system; but I have often thought that there might be an improvement made in this respect. If the stipendiary members of the Military Board had more control over the working of the board itself, than has been the case, I think they might get through their work more satisfactorily than they have done.

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665. By "stipendiary members," do you mean those whose entire time is devoted to the department?—Just so; there are two "stipendiary members" at Madras, whose duty it is to attend the office daily to superintend the current business, and arrange for the general meetings of the Board.

666. How many other members are there?—Two; the commandant of artillery and the chief engineer.

667. You consider that those members of the Board whose sole duty it is, as paid officers, to attend to the department, ought to have the responsibility thrown more on them, and that the other members, who have other duties, should come in as advisers to them?—I think so, generally speaking: but at the same time the commandant of artillery must exercise a very direct control over all ordnance matters, and the chief engineer over fortresses and buildings. But, as a general rule, I think that the stipendiary members should have a more direct control over the office establishment than they have hitherto exercised, the current business of the office being divided between them by arrangements made by the General Board, with the authority of Government, to whom they would be responsible for remissness or delay.

668. Mr. *Hardinge*.] Where is the Madras army now recruited?—Generally recruited in the provinces of the Carnatic or Mysore.

669. What proportion is there of high-caste men, as compared with low-caste men?—In former times the aim was to keep pretty nearly the same proportions of Mahomedans and Hindoos. I do not know whether that principle is completely acted upon still or not.

670. Have the regiments ever evinced disinclination to embark on foreign service?—There have been several instances of disinclination; there was one instance when I was at Madras, in a corps which had been in orders to proceed to the Tenasserim coast, where they would have got full batta and rations, and their families would have been provided for; the destination of this regiment was suddenly changed, and it was required to embark for Scinde. The men naturally asked, "What are we to leave for our families?" and the authorities at Madras could not, I believe, inform them whether they were to get the usual allowances or not. The men showed a feeling of discontent, and did not march off the parade, after having been inspected: they showed a sullen discontent, but there was no open mutiny. I was in charge of the arsenal at Madras at the time, where corps are marched down previous to embarkation, to have their arms and accoutrements packed. There is generally some bustle and confusion on such occasions, as the men are not under the restraint of a regular parade; but we observed in the arsenal that this regiment showed rather more regularity than most corps in such cases. They were discontented; but showed nothing like mutiny.

671. Sir *G. Grey*.] But that discontent had nothing to do with caste?—Nothing in the world.

672. Mr. *Hardinge*.] What proportion of their pay is left for the families on embarking for foreign service; is it laid down by regulation?—Yes, it is laid down by regulation; they may leave a certain proportion, but they are not obliged to do that. I think it amounts to as much as five rupees a month; they then live upon their batta and the extra allowances they get abroad.

673. What can a sepoy save per annum out of his pay?—I am not aware that he can save anything; they never do that I know of.

674. Would you recommend that horse field batteries should be substituted for the bullock batteries?—A certain proportion.

675. What proportion?—I should say, that if they had six horse batteries at Madras, with six troops of horse artillery, they would be efficient for any service called upon.

676. How many officers are there usually present with a troop or battery?—A captain and three subalterns to a troop of horse artillery; the horse batteries, a captain, and two subalterns; the other batteries much under that.

677. Sir *T. H. Maddock*.] You have mentioned that on a certain detachment being ordered on foreign service, and pensions for the families having been disallowed, there arose some disaffection among the men?—No; I did not say "disaffection;" I said that I understood there had been discontent among the men; not that they had shown disaffection.

678. Are you not aware that this arose in consequence of the Madras Government having authorised a system of pensions for their families, for which

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which there was no precedent and no rule, and that that was disallowed by the Government of India?—Sir Thomas Munro did, I believe, regulate the pensions of men who volunteered for service to Burmah in 1824. It is my impression that he laid down the rules, which were followed afterwards; that both men and officers considered them established; and when deprived of these advantages they, as most soldiers would do, felt discontented with the reduction of what they had hitherto enjoyed.

679. Is the promotion in the artillery in Madras slower than the promotion in the cavalry and in the infantry?—It is; one-third of our first lieutenants, nearly, are brevet captains; and the junior captain of 23 years' standing.

680. Does the practice of purchasing out officers prevail much in your regiment?—We have bought out a considerable number of officers in our regiment.

681. Mr. *Hardinge.*] Are the young officers upon those occasions obliged to subscribe their proportion?—There is a certain scale laid down, and each is asked whether he will join the fund.

682. That has had the effect of quickening promotion?—Most decidedly.

683. Have you ever heard any complaint among the young officers of their having to subscribe to this fund?—The only complaints I have heard were from those who either did not pay at all, or who paid irregularly. If the services gain the more immediate advantage in promotion, they have all the responsibility for the money borrowed.

Lieutenant-Colonel *Frederick Abbott*, C.B., called in; and Examined.

Lieut.-Col. *F. Abbott*, C.B.

684. *Chairman.*] HOW long have you served in India, and in what branch of the service?—Twenty-five years in the Bengal Engineers.

685. Will you mention the field services in which you have been engaged?—I served throughout the first Burmese war, in 1824, 1825, and 1826; I served with the Joudpore field force, in the second campaign to Cabul, under Sir George Pollock; and in the first Punjaub war.

686. Did you find the engineer officers employed under you efficient as field engineers?—Always; the field practice at Chatham, added to the theoretical education at Addiscombe, admirably prepares them for the active duties of the profession.

687. Had you any difficulty with the means placed at your disposal in carrying out successfully the orders of the general in command?—Never any difficulties that were not expected, and that could not be overcome. In passing the Sutlej river I had a large and magnificent establishment of boats placed at my disposal, by which means the army was crossed over, and enabled to bring the chiefs to subjection.

688. Do you consider the native sappers and miners as properly organised?—In the present organization I think they are exactly like the Royal regiment of sappers; I think nothing can be better.

689. Are the European sappers, educated at Chatham, found to be efficient as non-commissioned officers to the native sappers?—They come out very well trained, but, generally speaking, the best are draughted off to the department of Public Works, the Commissariat, and other branches of the service.

690. Have you had great experience in the department of Public Works in Bengal?—I served for 20 years in it.

691. Have any barracks for European troops been constructed under your superintendence?—A great number; nearly half the Bengal army was moved up to the frontier during the time I was superintending engineer in the North Western Provinces; and we had to put the whole of those under cover in a very short time.

692. Are you acquainted with the plan of barracks called the Standard Plan for the whole of India, laid down by Lord William Bentinck?—It is some years since I saw the plan, but in former years, when I was superintending engineer, it was always in my hands; I have a sufficient recollection of it to answer any questions regarding it.

693. Can you describe the dimensions of the barracks according to that plan?—I should describe the barrack as one central ward, 24 feet broad, between two smaller wards or verandahs, 12 feet broad, and with six running feet

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of wall marked off for each man. That was the established scale by Lord William Bentinck's plan, the walls 20 feet high in the central, and something less in the side wards.

694 Do you recollect what number of cubic feet of air this plan allowed per man?—About 1,200 cubic feet.

695. Do you consider that sufficient?—Abundantly; but the question is hardly one of actual dimensions, because, with proper means of ventilation, a much smaller quantity will answer the purpose; it is about twice as much as is allowed in the hot climates by Her Majesty's Board of Ordnance; I think it is about four times as much as they have in England to each soldier; and we all know that when a man goes down in the water in a diving cap he has about half a cubic foot; so that it is not a question of actual dimensions, but a question of supply with reference to the means of ventilation.

696. Have you seen the European barracks at most of the stations in Bengal?—I think I have seen all the European barracks above Benares; that is all that were constructed before I quitted India.

697. Do you consider them to furnish proper and suitable accommodation according to the climate?—All those which are called permanent. Those which are intended to remain as permanent buildings afford very good and salubrious accommodation. There are others there run up for temporary purposes; they are little more than bivouacks, and are done away with when not required; and they are inferior, of course.

698. If the troops suffer from disease, would you attribute it to want of adequate barrack accommodation?—I never suspected it myself, and I never heard that it was suspected by any medical man.

699. Has the Government shown a desire to remedy any defects which have been pointed out by medical or other inspectors?—Always. I have always seen a most earnest desire on the part of the Bengal Government to remedy any defects, and to increase the comfort of the European soldiers.

700. In the barracks, the construction of which you superintended, have punkahs been put up?—Throughout all the European hospitals punkahs were in full use, and they were in use in some of the barracks of the European troops, but I believe not throughout. Many officers commanding regiments objected to punkahs.

701. And baths, we have heard, have been introduced?—Several baths were constructed during the time of my superintendence. We found it was a very great comfort to the men, and it was the intention of the Government to add them to all barracks of a permanent nature.

702. Is there any other improvement for the health or the accommodation of the troops which you would suggest to the Committee?—If the question alludes to the plan of barracks laid down by Lord William Bentinck, I could point out some other improvements which experience suggested; for instance, I would always have barracks in India under a pent roof instead of a flat one.

703. Thatched?—Thatched or tiled. It affords much better ventilation, and it makes a much cooler barrack. I would also give outer verandahs; open verandahs round the barrack. Those afford a very admirable lounge for the men, and keep them out of the sun. They are in the open air, but not exposed to the sun. And I would also give married barracks, taking the women out of the barracks. That is a mooted point with many of the officers. Many of these improvements have already been carried out; they were carried out under my superintendence in many new barracks.

704. Mr. *Ellice.*] Do you know what is about the proportion of married to unmarried soldiers with the regiments?—I do not.

705. Sir *J. Hogg.*] What per centage is allowed?—I do not exactly recollect what the regulations are upon the subject.

706. Is it not 12 per cent.?—I do not recollect.

707. Mr. *Hume.*] In Lord Ellenborough's time, was not there considerable alteration made in the barracks?—Immense.

708. Were you there at the time?—I was.

709. Was much trouble taken in choosing the locality, to have them upon high ground instead of low?—Very great care was taken.

710. You stated that nearly half the Bengal army were placed in new barracks; for all those barracks were high situations selected?—To the best of our judgment.

711. That

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711. That you consider to be the rule throughout?—Always. There is always a committee formed of engineer and medical officers to survey the ground first. We are supposed to know all about the old cantonments, and we know the best spot in those cantonments.

712 Are there any rules fixed respecting ventilation?—There are no fixed rules. In Lord William Bentinck's plan there is nothing beyond small apertures left in the roof. In my superintendency of the barracks, we took a great deal of trouble about the ventilation. and brought it to great perfection by having large openings in the pent roof, regulated by shutters; so that you may allow as much or as little air to escape at each as you like. And everybody who has been in that climate knows, that the moment you open an aperture in the roof you get a draught from the doors and windows.

713. In the hot season is there provision made for tatties?—There is not a European who has not the benefit of a tatty, even the detached serjeants.

714. Will you state what is meant by a tatty; what it is made of, the manner of its operation, and the effect it produces; supposing the temperature out of doors to be at 110° to 130°, what is the result of that system of tatty?—The tatty is a mere mat, formed, generally speaking, of a species of grass called "kuss," which is bound loosely together so as to allow the wind to pass through it. This is fitted up to all the windward doors of the building. This tatty is supplied continually with water, by a man appointed for the special purpose, which keeps it continually moist, and the air passing through this tatty parts with its caloric, and enters the room with a reduction perhaps of 40° of tempe-ture; sometimes I have known it as much as that. It cools the apartment, and also produces what to some constitutions is an agreeable moisture. In India the air is absolutely dry. There is no moisture in the air during four or five months in the year, and that is very trying to an European constitution.

715. Are not these means calculated as much as possible to preserve the health of the soldiers, if they will keep within doors?—Very much.

716. Are you able to state the proportionate improvement in health by the new system which has been adopted?—I have seen no medical returns which would enable me to state that.

717. Have you provided anywhere in the barracks, grounds or places where exercise can be taken?—Generally speaking, there is an open shed; a sort of gymnasium.

718. Do you consider that that would be a very excellent addition to the barracks, in order to afford employment for the leisure hours of the men?—I think that workshops and gymnasia are well adapted to improve the condition of the men.

719. Could they not be erected at a very trifling expense, having plenty of room on which to locate them?—Yes. They could be very well erected out of the canteen funds, I think.

720. Are there canteens in all your barracks now?—I believe every European regiment has its canteen.

721. Separate from its bazaar?—Yes; the building is provided at the expense of Government; after that the whole is left to the regimental officer.

722. How long is it since you left India?—Five years.

723. For each corps have you not separate and distinct hospitals for the sick?—For each corps there is always a separate hospital.

724. In short, as far as provision can be made, every attention is paid by the Government to the health and comfort of the men?—There is no doubt of it.

725. Are medical officers always attached to the corps?—I have had a great deal of experience, and there are always a number of medical officers attached; and if more are wanted for the military service, they are draughted from the civil stations.

726. With respect to the barracks, is there any difference made as between the Company's European corps and the Queen's corps?—Not the slightest; they change barracks quite indiscriminately, as they change stations.

727. You stated that draughts were made from the sappers and miners to the department of Public Works?—The serjeants are draughted away; that is to say, more are sent from Chatham than are required with the regiment of sappers and miners; and the department of Public Works, requiring always good men for their overseers, send to the corps of sappers and miners to get their spare men.

728. From

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728. From whence are the draughts for the native corps for the sergeant-majors?—From the artillery chiefly, except sometimes from the sappers and miners.

729. Do you recommend the best men in those cases as a kind of promotion?—Certainly, as a kind of promotion to get employ.

730. You think that has a good effect upon the discipline and attention of the corps?—Yes, certainly. It may deprive the regiment of a good man, but its effect is good, as affording a stimulus to good conduct in the corps.

731. Can you suggest any other improvement that could be made which might tend to give a stimulus to good conduct?—No, I cannot.

732. In your opinion, every attention is paid both to the comfort and the discipline of the men, and to affording a proper stimulus to good conduct?—Most decidedly.

Veneris, 4° *die Martii*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Mr. Elliot.
Mr. Bankes.	Sir James W. Hogg.
Mr. Hardinge.	Mr. Vernon Smith.
Sir George Grey.	Mr. Hildyard.
Sir T. H. Maddock.	Mr. Spooner.
Mr. J. FitzGerald.	Mr. Cobden.
Mr. Milner Gibson.	Sir R. H. Inglis.
Mr. Baillie.	Mr. Edward Ellice.
Mr. Mangles.	Sir Charles Wood.
Mr. Herries.	Mr. Hume.
Mr. R. H. Clive.	Lord Stanley.
Mr. Disraeli.	

THOMAS BARING, Esq. in the Chair.

Lieutenant-Colonel *William Burlton*, C.B., called in; and Examined.

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733. *Chairman.*] WILL you inform the Committee generally of the nature of your services in India, especially field services?—I served in India about 39 years in all. I arrived in India in March 1809, and did duty as a regimental officer till 1820, during which time I was engaged in the Mahratta and Pindharree campaigns, and other small affairs, with my regiment, of which I was adjutant. In the end of 1820 I was appointed to the commissariat department, in which I remained till I came home in March 1848. During that time I was employed as a commissariat officer in the Bengal division of the army during the whole of the Burmese war in 1824, 1825, and 1826. I was afterwards appointed commissary-general in 1837. I was employed in Lord Gough's army in the Gwalior campaign. I was also at the Sutlej with Lord Ellenborough, and with the army of reserve at the time the Cabul armies were withdrawn.

734. How long did you continue as commissary-general?—From January 1837 till March 1848, when I came home.

735. While you were commissary-general were you also a member of the Military Board?—During the last four years; I was appointed to the Board in the end of 1843, and took my seat in March 1844.

736. Will you shortly state to the Committee how the commissariat is composed?—They are all European commissioned officers; there is a commissary-general, a deputy commissary-general, a joint deputy commissary-general; three first-class assistants, three second-class assistants, four first-class deputy assistants, four second class deputy assistants, 12 sub-assistants, and warrant and non-commissioned officers besides.

737. All taken from regimental officers?—Yes; all taken from regiments.

738. Will you state what are the duties of the commissariat in Bengal, in time

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time of peace?—They are almost innumerable; they have the feeding of all the troops; they have the purchase of the cattle, the feeding of the cattle; the provision of their attendants; the making of the hospital clothing, the hospital quilts, and providing hospital comforts of all kinds; and, in fact, whenever anything is required the custom is to call upon the commissariat officer, if there is nobody else expressly appointed for the purpose.

739. In time of war, what are their duties?—The duties are just the same.

740. In time of war they have to provide for the army in the field?—Yes; everything in the same way as they do in cantonments.

741. Is it your opinion that, under the present system, those duties are efficiently performed?—Yes, certainly; very much so.

742. And in time of peace do you consider that they are performed in the most economical manner?—I think they are; perhaps too economically sometimes.

743. The system is by tender for contracts, is it not?—Yes; by contracts.

744. Those tenders for contracts are sent in to the commissary-general?—They were formerly sent in to the commissary-general in the first instance.

745. He reports upon them to the Military Board?—He now is a member of the Board himself; they come to the Board now.

746. But the Board decides upon accepting the tender?—Yes; the Board is the deciding party. The commissariat officer, in the first instance, invites tenders; he issues advertisements in all the papers, both in the English and native languages, that tenders will be received on a certain day; he states the conditions of the contract, and the security that will be demanded from the tenderer, and announces that on a certain day they will be opened at the public office. The parties send in those tenders; they are opened, and he then draws out a statement of each tender, stating the terms and the nature of the security offered, and his recommendation upon it, and that he sends to the Military Board; the Military Board then decide entirely; the commissariat officer merely recommends.

747. Do they always adhere to the system of tender for contracts?—Yes. There are instances where tenders are not procurable, but that is the rule.

748. Do they always take the lowest tender?—The rule was always to take the lowest tender; and it was sanctioned by the Government; but there was considerable discussion upon that subject some few years ago, before I came away; it was referred to the Court of Directors, and it was principally in consequence of a recommendation which I made that the Court sanctioned a much wider deviation from the rule, stating that it should not be the invariable rule to take the lowest tender, when there were strong reasons against it.

749. Are you of opinion that the best mode of providing for the army is by tender for contracts?—I think it is; it elicits more exactly the state of the market; you are more likely to pay only a fair price, and to have the best articles.

750. Would you make it a rule that there should be no deviation from that system?—There may be circumstances to call for a deviation, but I think it is the best system.

751. You have been speaking of a time of peace. In time of war do you think that the agency of the commissariat has been as economical as could be expected?—Certainly, no doubt of it; but there are very peculiar circumstances, in which no officer can look to economy; if there is an urgent demand for the troops he must feed them, cost what it will; but still, no doubt, economy is the great object of every commissariat officer; it has been constantly pressed upon him, that economy is the great passport to the favour of Government.

752. Have the qualities of the articles thus obtained by contract always been of the best sort, or have complaints occurred?—Of course you are liable to complaints; there is no department in the world that is not liable to complaint, more especially where feeding is concerned; I suppose no gentleman ever kept a cook, who did not sometimes give him cause to complain of his dinner.

753. Are those complaints attended to?—They are attended to immediately. When a commanding officer of a regiment finds anything bad, it is reported as bad. There is a committee of officers appointed to examine it, and that committee either condemns the article, or reports it good; if they report it good the men are obliged to have it; if condemned it was generally sent back immediately, and the contractor was ordered to supply fresh.

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754. If the contractor fails in supplying fresh, what is done?—He comes under very heavy penalties; after being fined three times, his contract would be forfeited, and all losses would be borne by him, and the necessary supplies would be procured at his expense.

755. The contractor gives security?—Yes.

756. Can you state to what extent, with relation to the amount of his contract, he gives security?—I think it is generally about a third or a fourth.

757. Have there often been failures in the performance of the contracts?—Considering the immense number of them, I should say very few. For many very small items of supply there are separate contracts; and taking the whole number, I think that, comparatively speaking, the number of failures is very few indeed.

758. The supplies for the hospital are made under the same system that you have described?—Yes; all that the commissariat does supply is done by contract.

759. Have the complaints from the hospitals been frequent?—No; I think less frequent than from the barracks; but they have better articles. The contracts for hospital bread and meat are for a superior article to what is issued to the barracks; in fact the bread and meat furnished to the sick in the hospital are the same that a gentleman would put on his own table.

760. The wine that is used in the hospitals is not contracted for?—A large quantity is sent out by the Court of Directors; but when that stock runs out the commissariat is called upon to supply it, and they do it by contract.

761. Are the medicines contracted for?—No; the commissariat have nothing to do with the medicines; they come from England.

762. Is brandy contracted for?—I think it is; but that is a very small expenditure; it was contracted for by a European house in Calcutta.

763. Have you heard complaints from the surgeons of the quality of the articles furnished?—Yes, now and then; they have a committee in the same way as in the barracks, and the medical officer is one of the committee; sometimes it is a committee entirely of medical officers; they give their opinion, and the same process is followed as in the barracks.

764. With regard to the system of accounts between the commissariat and the Military Board, is that, in your opinion, the best system now?—I believe the system has been a good deal altered since I came away; when I was there the commissariat officer rendered his accounts to the Military Board, and there they were examined and checked.

765. When the commissaries send up their accounts, do they send them to the commissary-general or to the Military Board?—To the Military Board.

766. The commissary-general has no supervision over them?—As a member of the Board they come under his supervision; but before he became a member of the Board he never saw the disbursements; he merely saw the accounts current, showing the debits and credits every month, but he never saw the particulars.

767. What was the practice before the commissary-general became a member of the Military Board?—The accounts of the disbursements, the actual details of the expenditure, were forwarded direct to the Board; the commissary-general never saw them; all he knew was, that every month he received from the Military Board a statement, applicable to every commissariat office, of sums retrenched; that was called an audit statement, a document containing, sometimes, a couple of quires of foolscap paper or more; on the one side it was "Charged" so and so, "Allowed" so and so, "Retrenched" so and so; on the opposite side was a column for the reply of the officer; then that came to the commissary-general, and he gave his opinion after seeing the officer's reply.

768. Do you think it is desirable to alter that system so as to make the commissary-general responsible?—I do not think it would be possible to make the commissary-general responsible for the accuracy of the accounts. If he did, he would be crippled as an executive officer. I remember as far back as the year 1817 or 1818, I think when Colonel Weguelin was the commissary-general, it was desired by the Commander-in-Chief that he should accompany him to the field, and he distinctly stated that if he did, the current accounts must stand still. The Government agreed in that opinion, and he remained in Calcutta.

769. Mr. *Ellice*.] In all cases of administration of that description, are you of opinion that the person who directs the expenditure should not audit the expenditure?—Certainly.

770. *Chairman*.]

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770. *Chairman.*] Do you think that the system now adopted by the Military Board of auditing the accounts is the best that could be carried into effect?—I do not. I think the Military Board is now so overburthened with the details of other departments, that it is impossible the business can be properly conducted. I think there ought to be a distinct office.

771. Will you describe generally the system under which carriage is provided for the baggage, tents, ammunition, and food of the troops when moving in the field?—The tents and ammunition are always carried on the public cattle; that is, the Government cattle. The provisions, and so forth, are carried by hired cattle. The contractor furnishes his own carriage; but all the important articles, the tents, ammunition, and hospital stores, are carried on the Government cattle.

772. It has been stated to the Committee that on some occasions the quantity of food contracted for has not been delivered; would there be any mode of checking that?—I am not aware of the case referred to. There have been a few instances where it was necessary, for a few days, to put the troops on half allowance; but it was always made up to them either in coin or in kind.

773. But with regard to the cattle, it has been stated that in the Affghanistan war the food for the cattle was not furnished according to the contract, and that the cattle were often without food; would there be any mode of checking any dishonesty of that kind on the part of the native contractor?—There could not well be dishonesty on the contractor's part in such cases. If there was a want of food, it must have been from the sheer impossibility of obtaining it; otherwise the officer whose duty it was to receive it would have noticed it. No contractor ever issues food without getting a document from the officer. If there was an utter impossibility of obtaining it, such as there was in the Burmese war, when there was no such thing to be had sometimes as meat, the men would be allowed compensation.

774. Do you think there could be any kind of European supervision applied to the performance of the contracts by the natives?—I think not with any beneficial effect.

775. With regard to meat, is there not a European supervision exercised?—Yes, to a certain extent. A soldier, sometimes a non-commissioned officer, sometimes a private soldier, is appointed butcher serjeant; and his duty is supposed to be to inspect the contract cattle, and to see that no unhealthy or diseased animals are in the stock; and it is also his duty to attend when the cattle are killed and the meat is sent out. So far there is a supervision in that one article; but my opinion is, that it has never produced any good result. I believe that vigilance is very easily bought off by the contractor if he wishes to do so.

776. For the purpose of carriage, part of the cattle come from the Government studs and part are hired; is not that the system?—There are a great number kept up that are called Government cattle. The larger proportion of them used to be produced by the Government studs.

777. Which is the most economical system; hiring cattle or keeping your own?—I should say that the hiring system is the most economical, because you only pay for them when you want them, but in the other case you keep up several thousand cattle all the year round, and they are often lying idle. There is no doubt that it would be economy to have hired cattle if you could be sure of always getting them when you wanted them.

778. Would there be no objection to relying entirely upon hired cattle?—I do not think there would be much objection now. The subject was agitated some years ago, and it was referred to me by Sir William Casement. My opinion was asked upon it, and after considering it very carefully I stated that I thought the plan of hiring would save a great deal of money; but at that time had we depended upon hired cattle we might easily have been deprived of them. Such men as Runjeet Sing or the Bhurtpore Raja might have bought off the whole of the people. That I thought was the risk. There is not so much risk now because there is no person who would be likely or able to do it; but in consequence of that, the plan was not adopted. I am told that it has been adopted since I came away; that they are trying it as an experiment at several of the large stations, and that hitherto it is supposed to work very well, and that all the troops at the last reliefs in the Upper Provinces were moved entirely with hired cattle. And there is no doubt it will be economical if it answers.

779. Do you suppose that there have been any improper pecuniary advantages

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tages derived from the exercise of the commissariat by any of the European officers employed?—Most unquestionably I should say not. I do not suppose there is a more upright body of men in the world than the officers of the Indian commissariat. I remember before I entered the department (it must have been at least 40 years ago) there was some distant suspicion flung upon one or two of those officers. I think it was in 1811, soon after the commissariat was established; but from that day to this I never even heard a shadow of suspicion cast upon the character of any one officer in that department.

780. Is it your opinion that a certain number of the voluminous vouchers which exist might be dispensed with?—Certainly; more than half of them. I have seen an officer's accounts for one month supported by 7,000 or 8,000 vouchers.

781. And the accounts might be passed with more rapidity, so as to be less inconvenient to the officers in the Commissariat Department?—It would save them great labour and time, especially in a campaign; now, if a man is called upon to make a disbursement of the most trifling nature, he is obliged to fortify himself beforehand by getting vouchers innumerable.

782. Does not each commissariat officer enter into money security for his office?—Yes.

783. And that security is not released till his accounts are passed?—No, not till he is out of the department; the commissary-general and the deputies give no security because they have no money tranactions; they are merely supervisors of the transactions of others.

784. Have you any suggestion to make to the Committee as to the operation of the commissariat under the Military Board?—I am told that orders have been sent out to India very lately to alter the system, and if so, I think it is the most beneficial thing that can be done; that is to say, that the commissary-general should be restored to the footing on which the commissariat was 20 or 30 years ago.

785. Sir *G. Grey.*] You mean that he should not be subject to the superintendence of the Military Board?—Yes; that he should be held strictly responsible for everything that went wrong in the department, and that he should communicate directly with the Government. When I first entered the department the commissary-general had vast responsibility thrown upon his shoulders, and at the same time a very considerable discretionary power of passing all trifling charges; the commissary-general then communicated direct with the Government: if any commissariat officer was called upon for any trifling expense, he wrote down in half margin, and submitted the case, and the commissary-general wrote upon the other side his opinion, either sanctioning it or not; that went back to the commissariat officer, and was a complete voucher for his charge. In a similar case now, the reference would have to be sent up first to the deputy commissary-general, then to the Military Board, and thence perhaps to Government; and in the various forms that would have to be gone through, probably half a quire of foolscap would be expended.

786. Are you aware of the causes which led to the change of system, by which the commissary-general was subjected to the control of the Military Board?—No, I do not recollect them.

787. When a regimental officer is taken from his regiment, to be employed in the commissariat service, is he permanently moved from the regiment, and is the vacancy filled up, or does he remain upon the list of the regiment?—He remains upon the list of the regiment; if he is promoted to be a field officer, he goes back to his regiment, unless he be in the higher grades of the department

788. Are the whole of the officers employed in the commissariat service withdrawn from the strength of their respective regiments?—Yes; they are taken away from their regiments.

789. Mr. *Elliot.*] In the ordinary movement of troops, are the civil servants applied to, for the purpose of assisting in getting supplies for the troops on their march?—Yes. If the commissariat officer cannot provide them himself, he applies for assistance.

790. In the ordinary movement of troops about the country, are not the civil servants frequently applied to?—They are; but they ought not to be so if a commissariat officer is upon the spot.

791. To what officer ordinarily is the application made?—The collector of revenue.

792. Is

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792. Is the assistance given by the civil servants attended with much advantage to the troops?—I do not think it is, except that the commissariat officer sometimes cannot get supplies, and then he is obliged to have the order of the collector for the purpose. A commissariat officer may go into a village, and may fail in getting what he wants, and without the order of a civil servant no impressment can take place.

793. Then, when the commissariat department is unable to procure supplies, great advantage is derived from the interference of the civil authorities?—Certainly; so far they assisted us in getting us what we wanted. The simple fact is, that the commissariat officer is not allowed to press as the collector is.

794. Sir *T. H. Maddock.*] But ordinarily on the marching of detachments, are not applications made to the civil officers giving them a list of the stages where the troops are to be at particular dates, and giving a list of every description of food that is required?—Perfectly so as to food; but I understood the question to refer to cattle to carry the baggage. It is always so in marching through the country; notice is sent previously to the collectors, but that is not done by the commissariat; it is the duty of the officer commanding the detachment.

795. Mr. *Elliot.*] But those supplies are provided by the civil authority?—Yes.

796. Mr. *Hume.*] Does not the civil officer generally send a peon to see that everything that they want is supplied?—I imagine that he does.

797. Sir *T. H. Maddock.*] On the movement generally of a regiment or a detachment, in the course of relief in ordinary service, is it not the fact that they are not usually attended by any commissariat officer superior in grade to a gomastah?—No; each regiment marching has a gomastah (that is, a native agent) attached to it.

798. During those marches, are they not entirely dependent upon the civil authorities for food, and for any supply of cattle that may be deficient in consequence of deaths or casualties during the march?—Yes, necessarily; they have no commissariat officer with them.

799. Mr. *V. Smith.*] I understood you to say that you were satisfied generally with the conduct of the contractors under the commissariat; have you ever known any instances of gross fraud by contractors?—My impression is, that they have fulfilled their contracts satisfactorily from regard to their own interest, the penalties are so heavy for a default; they are fined, they forfeit their security, and they are liable to make good any loss that occurs from their default.

800. Are those securities generally enforced?—Always; there would be no mercy shown them.

801. Have you had any instances of their not being enforced?—Not where they ought to have been enforced.

802. Is there great competition by those contractors?—Very great.

803. Have you known them offer at prices so low as to be unremunerative, and afterwards supply bad provisions to make up their emoluments?—Yes; I think very often.

804. Then you do not consider that satisfactory?—No; but I am bound to say that those contractors ought not to have been accepted; they were accepted, most generally, in opposition to the recommendation of the commissariat officer.

805. Then when you call for tenders, is it with the reserve that the tender shall not be accepted, if you consider the person making it not to be a fit person to make the contract with?—The tender is submitted by the commissariat officer to the Military Board; he submits the tenders, and he says, so and so is the lowest, but I do not think him a respectable man, or a man able to fulfil the contract properly, and I recommend so and so. But the Military Board would most probably insist upon having the cheapest; they have invariably done so till within the last few years.

806. Then although you are satisfied with the conduct of the contractors, you are not satisfied with the conduct of the Military Board, with reference to the recommendations of the commissariat officers?—Exactly so; I think the cause of the failures which have taken place is to be attributed to this, that the contract has been given to a man who was not fit to take the contract.

807. What is the punishment on the contractor when he fails to perform his contract?—They confiscate his security.

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808. Is that very heavy?—Yes, it is sometimes very heavy; I have known some security as high as 1,000 *l.* or 2,000 *l.*

809. He is not subject to any other punishment but that pecuniary fine?—No, I think not.

810. Sir *T. H. Maddock.*] Have you ever known of native officers and contractors in the Commissariat Department amassing very large fortunes, far beyond what they could legitimately obtain from their salaries?—I cannot say that I have known it, because no man could tell what their means were: but I have seen contractors living, after they have had large contracts, in a style far beyond what they had previously done; of course I could not know what their means were.

811. Mr. *Hardinge.*] When an officer finds that he has a short allowance of provisions, with whom does he lodge his application?—If they are short in quantity he will not take them.

812. In the field, has he many occasions of reference to Calcutta?—No; they do not refer points of that kind to Calcutta: if there be a short issue of provisions made, he refers to the commanding officer upon the spot, and insists upon having his full allowance.

813. Can you state what is the proportion of doolie-bearers to the fighting men?—I think it is a doolie to every 20 Europeans, that is, six men to every 20; and in the native army they have two doolies to every company.

814. What is the number of Government cattle kept upon the peace establishment?—I think there are about 5,000 or 6,000 camels, and as many transport train bullocks, and about 500 or 600 elephants: but they vary according to circumstances. If there were a campaign on foot, of course a great number more would be entered on the service immediately, and they would take some time afterwards before they died off.

815. When an army takes the field, what is the proportion of public cattle to private cattle?—It depends upon the quantity of provisions you are ordered to take. Directly an army is warned for the field, the commissary-general receives instructions to provide provisions for so many weeks or so many months, as may be deemed necessary.

816. Can you state about what proportion the private cattle hired bear to the public?—There are more hired cattle than public generally. The immense quantities of grain which have to be carried require very long strings of bullocks and camels.

817. Can you inform the Committee what is the proportion of registered followers as compared with the number of fighting men?—I suppose about three to one.

818. And how many are unregistered followers?—About as many as the others, if not more; but in saying that, I have no precise data to go upon.

819. Mr. *Hume.*] Will you explain what you mean by "registered followers"?—The registered followers are those who receive Government pay.

820. Mr. *Hardinge.*] Has there not been on many occasions great difficulty in feeding the unregistered camp followers?—The Government do not feed them.

821. But has there not been great difficulty in feeding them on different expeditions?—I have never heard of much difficulty. They contrive to feed themselves somehow or other; but I do not know how, except that they buy flour from the sepoys.

822. Are not the sepoys in the habit of selling half their provisions?—Yes; the Hindoo sepoys particularly are very fond of money.

823. Have the commissariat officers to pass through any examination before being appointed?—Yes; an examination in languages, Persian, Hindee, and Oordoo.

824. And in keeping accounts?—Yes.

825. Do you think that steps could be taken to reduce the quantity of baggage carried with the Bengal army?—There is a limit laid down if it could be enforced. A subaltern officer is only allowed one camel to carry his baggage, which is little enough.

826. But the limit is always exceeded?—I think it is always.

827. Sir *T. H. Maddock.*] Will you detail, for the information of the Committee, what are the establishments of the Government in Bengal which you would abolish, and, in place of them, depend upon hiring cattle and other things?—

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things?—Camels and bullocks; I am not prepared to recommend the abolition of them strongly; I only say that I think it would be more economical.

828. Are they not expensive establishments?—I think the expense of keeping a camel is about three rupees a month, and a bullock about the same; elephants again, cost from 30 to 40 rupees a month.

829. Mr. *Hume*.] Must not the number of cattle to be kept by the Company in any part of India depend on the state of the country generally, and the nature of the service you are likely to require?—There is a rule laid down by the Government, which is, that troops in a frontier station shall be kept provided with a certain quantity of cattle, ready to move them at a given notice.

830. And the Government, seeing where the corps are placed, forms its own judgment as to how far their services are likely to be wanted, and directs the extent to which these establishments shall be maintained accordingly?—Of course.

831. Sir *T. H. Maddock*.] You would by no means abolish the establishment of elephants under the Government?—No; I would rather increase it.

832. Because it would not be possible at any time to obtain a great number of elephants by purchase?—No; and they cannot be hired on any terms.

833. Mr. *Hume*.] Upon the whole, do you consider that elephants are by far the most useful class of animals for the purpose of carriage, as they can be moved from place to place with great ease, and they are always to be depended upon?—They are certainly a most efficient class for an army, because they have the great advantage of being able to move in time with the troops, and the European soldiers, if they are marching in hot weather, find their tents arrived almost as soon as themselves, but they are very expensive.

834. Sir *T. H. Maddock*.] Much more expensive than camels?—Yes.

835. Mr. *Hume*.] From the immense number of camels required, when camels are employed, and their straggling kind of march, are not elephants always preferable, where they can be had, as a protection to the baggage against the attacks of cavalry?—I do not know that there would be much difference in that respect. If there are horsemen bold enough to sweep off the baggage, they would carry off elephants as well as camels.

836. Mr. *Mangles*.] Are not elephants much better in wet weather?—Yes; there is no doubt that elephant carriage is the finest carriage in the world; but it is extremely expensive. Upon a fair calculation one elephant will carry about as much as four camels; but the camel only costs about three rupees a month, and the elephant not less perhaps than 35. The price or value of the latter, also, is more than double that of four of the former.

837. Mr. *Elliot*.] Is not there much greater mortality among the camels than among the elephants, particularly in wet weather?—Yes, in wet weather especially.

838. Mr. *Hume*.] You stated that you thought it very desirable that the commissariat should return to the system of individual responsibility. Have you formed a decided opinion as to the advantage or disadvantage of having Boards at the head of the several departments, or of having individual responsibility?—I am quite of Bentham's opinion that a Board is only a screen; I would fix individual responsibility in every case; I would have no Board anywhere, in any executive department.

839. Your experience in the course of a long service has led you to give that as a decided opinion?—It has, decidedly; at the head of every department I would have an individual responsible.

840. Mr. *Hildyard*.] You stated that the Sepoys are constantly in the habit of selling half their allowance of food; is that allowance more than is necessary to maintain them in a state of good bodily strength?—I think it is more than they would eat by themselves; it is 2 lbs. of wheat flour.

841. Is that, in your opinion, more than a necessary allowance?—They make it so; but a medical man could answer that question better than I can, whether two pounds of flour daily is more than sufficient for a man's support.

842. Do they hoard the money which they get by selling half their allowance, or do they expend it in something else which they like better?—The Hindoos chiefly hoard it; the Mahomedan is a more extravagant man, and he spends it.

843. Mr. *Hardinge*.] When the cost of the daily allowance exceeds 15 seers the rupee, they get compensation?—Yes.

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844. Sir *T. H. Maddock.*] Under what circumstances is this ration of food supplied to them?—Only when they are in the field.

845. And not when they are in the field if they have a bazaar?—No.

846. It is only in emergencies, when the bazaar cannot supply them, that the commissariat is called upon to supply them?—Yes.

847. Mr. *Hume.*] The Committee are to understand that the commissariat never issues rations or allowances to the native troops, except in cases when they are unable to obtain supplies from the bazaar?—Certainly; the native troops are never provisioned by the commissariat, unless in cases where the bazaar fails.

848. But the European troops are always provided by the commissariat?—Always; both in cantonments and in the field.

849. *Chairman.*] Would you suggest any change in the furlough system of the army?—Yes. I think it would be better if officers were allowed to come home twice or thrice during their service instead of only once; unless you get sick you cannot get away; after taking your first furlough you may remain 20 or 25 years, but you are not entitled to come away unless you fall ill.

850. You think that alteration would be beneficial, as well as agreeable to the army?—No doubt of it; no doubt coming home does every man good.

851. Sir *T. H. Maddock.*] Would you allow officers to come home to Europe on sick certificate with the same advantages with which they can now visit the Cape or Australia?—It would be a very great boon to them if that were granted, no doubt; and considering that they can come to England in a shorter time than they can get to the Cape or Australia, I think it would be a very desirable alteration to make.

852. Mr. *Elliot.*] What disadvantage would arise to the public service from that change?—I do not know of any, except that it would add to the expense if they got their full allowances.

853. Mr. *Hardinge.*] Would not a military officer coming home and visiting the Continental armies make himself better acquainted with the details of his profession, and go back to India, not only better in health, but a better officer?—Unquestionably.

854. Consequently, if you were to give him one year's furlough after five years' service, and another year's furlough after another five years' service, would it not offer great advantages to the officer, and give him opportunities of improving himself as an officer?—Certainly it would.

855. Mr. *Elliot.*] How would it be attended with greater expense to allow the officer to come home than to allow him, as at present, to go to Australia or to the Cape of Good Hope?—On going to the Cape or to Australia they retain their allowances; those that come to England now lose their allowances; if they retained their allowances, of course many more would come to England.

856. Sir *G. Grey.*] An officer absent on sick leave, and not coming to England, retains his allowances?—He retains half his staff allowances.

857. If he comes to England, and he is not on sick leave, but on furlough, he does not retain his allowances?—No; and that is the inducement to keep officers many years hanging on, when they ought to come away for the benefit of their health.

858. Mr. *Elliot.*] Is not that attended with disadvantage to the service, keeping officers in the country who ought, from the state of their health, to be able to leave it and to return with recruited health?—No doubt of it.

Colonel *Francis Spencer Hawkins*, C.B., called in; and Examined.

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859. *Chairman.*] YOU have lately returned from Bengal?—I have; I returned to England in December last.

860. What has been the length of your service in India?—Between 36 and 37 years.

861. What office did you last hold there?—That of commissary-general.

862. In virtue of that office you were a member of the Military Board?—I was.

863. You have heard the statement of the last witness as to the composition of the Commissariat Department in India, and as to its general system; did the same system exist during the time you were commissary-general?—Yes; precisely.

864. What

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864. What experience have you had of the working of the commissariat in war?—I was for 27 years attached to the Commissariat Department. I had the commissariat charge of the cavalry division, at the siege of Bhurtpore, in 1826. I had the entire control and management of the Commissariat Department in China, from 1840 to 1843; and I had the supervision of the Commissariat Department in the present Burmese war, from March 1852 till the period of my leaving India in November last. As commissary-general I was cognizant of the proceedings of the commissariat during the Punjaub war, in 1848 and 1849; and I have had opportunities of knowing the system of supply in all the wars in India since 1839.

865. Is it your opinion that, under that system, the troops were amply supplied with provisions?—In general I believe they were most amply supplied with provisions, and that they were good; there are some instances to the contrary.

866. Was it also an economical system?—I am not so sure of the system being the most economical, but I believe it was efficient.

867. Can you suggest any improvements in the system?—The ordinary system of supply during the wars since 1839, with the exception of the war with China, and the whole of the Burmese wars, has been to entrust the supply of provision and cattle to an influential native of India, partly as a contractor, partly as an agent. Through the activity and energy, and good faith of the individual employed, the plan has been successful with regard to efficiency, but I think it is one fraught with danger, and objectionable on many accounts.

868. Will you state to the Committee the objections you entertain to the present system?—It is making the subsistence of an army dependent on the life and good faith of a single individual, and it gives an opportunity for high charges.

869. What would be the remedy which you would propose?—The remedy I would propose would be, to make the commissariat officers in charge of the divisions adjacent to the field of operations use the resources of their own districts, and to let the responsibility of the result rest upon the commissary-general and his officers.

870. Was not there a commission appointed to inquire into the commissariat, which has made a report lately?—I am aware of it; I read the report.

871. Can you state the general nature of that report?—The commission have suggested that the system of cash and stock accounts should be radically changed; then they propose that the superintendence and control of the commissariat should be removed from the Military Board to the commissary-general with reference to the executive, and that a separate auditor-general of accounts should be appointed to audit the accounts of the department.

872. Then you would abolish the supervision of the Military Board over the Commissariat Department?—The supervision of the Military Board would cease over the Commissariat Department.

873. Do you think that desirable?—I think that the transfer of the duties from the Military Board would promote the efficiency of the department, and prove beneficial to the Government.

874. You concur, then, generally, in the recommendations of that report?—Generally, I do; but there is one portion of the report, as to rendering accounts during war, which I entirely object to.

875. What is that?—It is proposed that each commissariat officer of a division should render a separate account. I believe that system to be impracticable and inexpedient on this account: long before an army assembles in the field, there is a large expenditure for the collection of supplies, cattle, and materials of various kinds. An officer, generally most experienced in the department amongst the executive officers, is selected for this duty, and he is obliged to expend a large sum of money and keep an account of it. If the division officers were to render accounts of their separate divisions, they would render dead accounts for which they were not responsible; they must receive those accounts from the officer who made all the arrangements and advances. Therefore I think it is inexpedient for the division officers to render an account. I would have a separate officer in charge of the accounts; and to him I would entrust the rendering the accounts of the army, whilst I would appoint other officers for the executive duties.

876. If I understand you rightly, the system which you would recommend

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would be to throw more individual responsibility upon the commissary-general?—I would certainly have him responsible alone for the efficiency of the extensive duties of his department.

877. I understood you to say that you thought the present system objectionable, because the supplies of provisions depend upon the good faith and power of an individual?—During war.

878. Do you mean that you would not continue the present system of contracting by tender for everything that is required?—There are no contracts for supplies during war: there never have been; there has been an agent appointed, and that agent has purchased provisions wherever he could get them, and charged the Government with the price of those provisions.

879. Has that agent been a European agent or a native agent?—A native agent.

880. It is to that that you object?—Yes.

881. Not to the present system of contracting by tender?—Not to the system of contracting during peace.

882. Do you consider that there are too many executive departments confided to the Military Board at present?—I believe it is impossible for the Board to perform all the duties with which they are charged; in fact, with regard to the commissariat alone, the members of the Board never see any account of the disbursements at all. All that they see are the retrenchments made by certain auditors of the Board, and when those retrenchments are replied to by the executive officers, they are for the first time brought before the members of the Board; therefore the accounts are in fact not passed by the Board, but by the uncovenanted auditors; therefore I think the Military Board are quite unequal to the commissariat duty. They are equally unequal to the duties of the department of Public Works, the Ordnance, and the Stud, which are performed in the same way.

883. Will you state what the general duties of the Military Board are?—The duties of the Military Board are to superintend the Commissariat Department, the Public Works, the Ordnance, and the Stud.

884. The Public Works include bridges, building barracks, and roads?—Yes; the roads that are under the Board. The large public roads are in the department of Public Works.

885. They superintend the repair of all public buildings?—Yes; both civil and military.

886. Mr. *Mangles*.] And canals?—And canals.

887. *Chairman*.] Are the Committee to understand that your evidence applies only to Bengal?—To the Bengal Presidency.

888. Are you conversant with the system adopted in the other Presidencies of Madras and Bombay, as regards the relation of the commissariat with the Military Board?—I believe I am acquainted with it generally.

889. Is the system the same in Bombay?—It is very much the same in Bombay, except that the commissary-general is not a member of the Board at Bombay, whereas he is at Bengal.

890. Is there the same system in Madras?—The commissary-general has the entire control of his department at Madras: he receives the accounts of the different executive officers of divisions, and embodies them in one general account of his own, which general account he submits to the auditor-general and Military Board for ultimate audit; that is, his disbursements for the troops are submitted to the auditor-general, and his disbursements on account of the Ordnance and other departments, not the Commissariat, are submitted to the Military Board.

891. Do you consider that system preferable to the system adopted in Bengal?—I think it is far preferable, with reference to the smaller presidency of Madras; I do not think the commissary-general could compile the accounts, and control the executive duties of so large a charge as Bengal.

892. With regard to the department of Public Works, there has been a commission which has made a report upon that subject: does it recommend that the Public Works should be removed from the supervision of the Military Board?—I am aware that a commission has sat, and that they have recommended the removal of the Public Works from the control of the Military Board.

893. Do you concur in that recommendation?—I do most decidedly concur in that recommendation.

894. With

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894. With regard to the Ordnance, which is likewise under the Military Board, what would you recommend?—I would suggest its removal also, and that it should be placed under a separate officer.

895. Then what would become of the Military Board?—The Stud Department would remain under its control; but that might also be removed, and then the Board might be abolished.

896. Would there be any inconvenience from the abolition of the Military Board, as a Board?—The departments under the Military Board have each their separate secretary, with the exception of the Stud; they all have their separate offices, and the proceedings of all are recorded separately: therefore I conceive that there would be neither detriment to the public service nor difficulty in at once removing them, with offices and secretaries, to other control.

897. It has been suggested to the Committee by one of the previous witnesses, that in order to ensure the proper supply of provender for the cattle during the war, and its being really given to the cattle, it would be desirable to have the supervision of some European officers. Do you think that that could be done? —There are a number of cattle serjeants, appointed for the express purpose of supervising the food given to the public cattle. The contract cattle, the owners of course feed themselves; the commissariat have nothing to do with them; but I think upon all occasions, when there are too many for the cattle serjeants to supervise, any assistance of that kind by trustworthy Europeans, officers or privates, would be very useful.

898. Are you aware whether it has often occurred that the cattle have not been properly fed?—When the cattle have been marching without the superintendence of European officers, under native gomastahs they have very often reached their destination thin and impoverished; and there is very little doubt that they have not received the regular food which has been allotted to them, and which they ought to have got. There have been various instances in which the commissariat cattle attendants have been discharged, on the condition of the cattle being found to be bad.

899. As a general matter, is not the inspection of the food, and the duty of seeing that it is given regularly to the cattle, more under the control of the officers of the corps than of the Commissariat Department?—It is very difficult, and in fact impossible, for the commissariat officer to superintend the distribution of the food which ought to be given to the cattle of each corps. I think it would be a very great improvement if the quartermaster, or any other officer of the corps, were to see the cattle fed and cleaned every day.

900. From your great and recent experience, have you any further suggestions which you would desire to make to the Committee?—The inquiry offers so wide a field, that I am afraid I could not communicate them to the Committee with sufficient briefness; but I would advocate an entire change in the constitution of the department; I would gradually remove all commissioned officers from its ranks, and form it on the model of the British commissariat.

901. Have you any improvements to suggest in the Commissariat Department? —I believe that one of the greatest present improvements that could be made would be to transfer it from the control of the Military Board to the commissary-general, and he would regulate whatever is necessary.

902. Mr. *Mangles*.] Is not that contemplated?—A committee have recommended it; but whether that recommendation will be adopted, I do not know.

903. Sir *J. Hogg*.] You have adverted to the Commissariat Commission; was that a commission appointed in 1851 by Lord Dalhousie, to inquire into and report upon the system of the army commissariat?—It was.

904. Will you state how that commission was constituted; of what members did it consist?—Mr. Allen, a civilian, was the president of that commission, and Colonel Sturt and Major Anderson, two military officers, were its other members.

905. How many members were there altogether?—Three; one civilian and two military men.

906. You said that you had read the report of that commission; can you state what was the opinion of that commission with respect to the integrity of the commissioned officers of the commissariat establishment?—The commission stated that the whole of their inquiries had led them to be certain that the integrity of all the commissariat officers was unquestioned; that there was no instance of any commissariat officer having, in any way, committed himself.

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907. Will you state the rules under which military officers are appointed to the commissariat?—I have the rules with me, and will give them to the Committee, if I may be allowed to do so.

908. Mr. *Hume.*] Will you state them generally?—Candidates are, first of all, to be examined as to the mode of preparing the accounts of the department; they must have passed an examination in the native languages, and must be able to draw out accounts current, and disbursement accounts, with their own hands; they must know the regulations of the department, and the regulations of the army generally; they must be acquainted with arithmetic and mensuration, and be able to compute the value of solids and fluids, and their dimensions; these are the general inquiries that are made of them.

909. Sir *T. H. Maddock.*] What was the date of those regulations?—I think they were in 1851; I will hand in a copy of them.

[*The same was delivered in, and read as follows:*]

MEMORANDUM.

THE qualifications of officers for appointment to the Commissariat Department, are as follow:—

In Native Languages.

To pass a literary test in Hindustani.
To be able to read and write Persian with facility.
To have a colloquial knowledge of the Oordoo and Hindooee.

In Accounts.

To pass an examination in vulgar and decimal fractions; involution and evolution; in mensuration, and the computation of areas and solid contents; and the system of book-keeping by single and double entry.

All appointments are probationary for twelve months; at the expiration of that period the officers are required to undergo a second examination on the following points:—

1st. On his acquaintance with his responsibility and duties in the care and custody of the public cattle and stores under his charge.

2d. On his knowledge of the system of procuring supplies by departmental agency or contract, as circumstances may require, and the rules affecting the preparation of contract-deeds, and the liability of contractors.

3d. On his acquaintance with the mode of rationing European troops, and the different articles comprising their rations.

4th. On his acquaintance with the mode of rationing native troops, and the circumstances under which rations are issued to them.

5th. On his knowledge of departmental rules, and of the forms of returns furnished periodically to the heads of his department.

6th. On his ability to draw up with accuracy estimates and average statements of the cost of victualling troops and feeding cattle.

7th. On his knowledge of the equipments of cattle and stores required for the cavalry, artillery and infantry, with reference to their numbers and the distance to be marched.

8th. On his facility in reading gomastahs' accounts, as presented in Persian or Hindee, and in writing perwannahs in the above languages.

9th. On his ability to prepare monthly disbursements from the checked accounts of native agents with an account current, and his knowledge of the vouchers required to support the charges under the different heads of expenditure.

10th. The extent to which the probationer is conversant with the general system of accounts in the Commissariat Department.

910. Sir *J. Hogg.*] Both the Commissions to which you adverted, the Commission which sat to enquire into the Commissariat, and that upon the Public Works, have made their reports?—They have both sent in their reports.

911. Are you aware whether any instructions have been sent out generally to carry into execution the recommendations of both those Commissions?—No, I am not aware; I have heard that the recommendations of that Commission in the department of Public Works have been adopted, but when I left India I do not believe any orders regarding the commissariat had arrived.

912. The recommendations had not been carried into execution?—No, they had not.

913. You

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913. You have stated that instructions were sent out by the Court of Directors with regard to the acceptance of contracts for the commissariat supply of the army?—The orders of the Court were, that efficiency was to be the principal object in the acceptance of contracts, that the food and other supplies should be good, and that cheapness was to be a secondary consideration; I have also got a copy of the orders of the Court of Directors regarding the contracts, which I can deliver in.

[*The same was delivered in, and read as follows*:]

EXTRACT Military Letter to Bengal, dated 29 December 1848, No. 98.

LETTER from, dated 15 May 1848, No. 80.

70 and 72. Explanation by the Military Board of irregularity in the acceptance of a tender for the supply of bread to the European troops stationed at Jullunder.

24. We approve of the notice taken by you of this subject, and also of the intimation made by you to the Medical Board, that, as a general rule, the lowest offer that is accompanied by satisfactory security should be accepted, with exception to cases in which the executive commissariat officer may adduce good and reasonable objections against the securities or against the offer itself.

25. The great object of securing bread of the best quality for the troops should not be hazarded by the acceptance of tenders which it is known by the local officers cannot be properly fulfilled; as, for instance, at Cawnpore in the year 1846, when soojee bread was contracted for at 30 loaves the rupee, although the current rate was 16 loaves the rupee.

26.* Upon this subject we again quote the following extract from your communication to the Military Board, dated 25 August 1843.

"In one point the Governor-general in Council fully concurs with your Board and with the Commissary-general in considering it indispensable that really good food for the soldier should be procured; and that there is no object to be gained in provisioning him at a rate lower than is covered by the stoppage from his pay."

* *See* Military Letter, 14 May 1845, No. 49, Paras. 12 to 17.

27. On the contrary, it has been frequently observed that there is a disadvantage in the rate being less, so as to allow of balances being due to the soldiers. In one of the documents amongst the papers now before us, the major-general in command of the Cawnpore division (Sir H. Smith) observes, that compensation is an evil to the morals of the soldier and to discipline, and that "we want no compensation; we want good and wholesome food."

914. Sir *G. Grey*.] What was the date of those orders?—1848.

915. Since the year 1848 have those rules been adopted in accepting tenders?—They have not been precisely the rules adopted, because it is there said that the lowest tenders should be rejected if the commissariat officer gave sufficient grounds for their rejection; now the grounds which the commissariat officers have given have been repeatedly thought not to be sufficient, and the tenders have been accepted, and the contracts have very often failed in consequence.

916. In point of fact, since those directions were given by the Court of Directors in 1848, has an essentially different system been adopted with respect to the acceptance of tenders, or not?—I think an essentially different system has not been adopted; but I believe that to be attributable to the Military Board.

917. Mr. *Hardinge*.] What system of audit is recommended?—A separate auditor-general to audit the commissariat accounts especially.

918. *Chairman*.] Have there been any great number of complaints as to the quality of the provisions furnished to the army during time of peace?—Yes, they have very often complained that the contractors have not acted up to their contracts; there is a certain quality of provisions to be given; for instance, in meat, the best grass-fed bullocks; and in bread, the best that can be procured, made of soojee, which is the heart of the wheat.

919. Were those complaints in general, in your opinion, well founded, or not?—A great number have been very well founded, and the contractors have lost their contracts, and their security has been forfeited on account of those complaints.

920. Have many contracts have been forfeited during your period of service?—There have been a great number; but whether a great number in proportion to the whole number of contracts that have existed I cannot say, but I suppose that three or four of the bread and meat contractors in the different divisions have annually failed, and the securities have been forfeited.

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921. That is not a great proportion, relatively, to the number of annual contracts?—No, it is not a great proportion.

922. Sir *R. H. Inglis.*] To what class of the troops do you supply grass-fed bullocks?—To the European troops.

923. Had not your previous answers reference to the native soldiers?—No; I was not aware that the native soldiers were the subject of inquiry.

924. *Chairman.*] With regard to the hospital supplies, is it your opinion that the contracts have been well executed?—I believe the hospital contracts have been carefully attended to; the hospital supplies are small in quantity, and they have generally been good, and no complaints have been made of them.

925. Mr. *Hardinge.*] Are the canteens under the commissariat?—The canteens are not at all under the commissariat; they are under regimental control.

926. How are they supplied?—The canteens have always been supplied with malt liquor, and every beverage, with the exception of rum, by means of their own agency; but for rum they indent upon the commissariat, and for nothing else now. Before I left there were orders from the Court for the commissariat to supply beer and porter to the canteens, in hogsheads. but that had not come into general operation when I left India; but the canteens will be supplied in future with both porter and beer by the commissariat.

927. When did that order come out?—Last year.

928. Sir *T. H. Maddock.*] Are those rules which you have given in, with respect to the examination of officers who desire to be appointed in the commissariat department, now in force?—They are strictly enforced; an officer is appointed on probation, and at the end of the twelvemonth he is examined as required by those rules.

929. How long have those rules of qualification been enforced?—About a twelvemonth.

930. Who are the persons who have to examine and report upon the qualifications of the individuals?—Generally the senior civil officer of the station where they are examined, the superintendent of Public Works, and either a deputy commissary-general, or another experienced commissariat officer.

931. Do you suppose that those two officers, the civil officer and the military officer, are themselves perfectly competent to test all that is required of the commissariat officer by those rules?—I think the collective committee ought to be fully qualified to test the officer in his examination.

932. Mr. *Hume.*] With respect to those who are selected for the higher offices, is there any care taken to see that they are well acquainted with the native languages?—All the officers appointed to the department for many years past, since 1834 or 1835, have been obliged to undergo an interpreter's examination as to their knowledge of the languages.

933. Do you consider that the knowledge which the officers have possessed of the colloquial language has been sufficient for the service?—Certainly, as regards all those who have undergone the test of examination.

934. If the regulations, of which you have given in a copy, are carried out, is it not your opinion that that would be amply sufficient to provide for the service?—It would add greatly to its efficiency.

935. Sir *J. Hogg.*] You mentioned that in future the canteens in Bengal will be supplied with porter and ale by the commissariat; is it not the fact that for many years porter and ale have been very extensively used by the troops at Madras and Bombay, and with great success?—I believe they have.

936. Sir *T. H. Maddock.*] With reference to the former answer which you gave concerning the expediency of having a European to superintend the feeding of the cattle during a march, is it not competent for any officer commanding, whether commanding a regiment or commanding a detachment, to order any officer subordinate to him to superintend the feeding?—It has not been the practice, but it is within his authority to do so, undoubtedly.

937. The commissariat authority, the gomastah, would be entirely subordinate to him; he could not resist his authority?—Unquestionably.

938. Then the responsibility must rest, in a great degree, with the commanding officer of the regiment or the detachment?—It ought to rest with the commanding officers, but it has not been the practice for them to issue such orders, nor have they been called on, except when the cattle have proved deficient either in condition or strength.

939. Mr.

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939. Mr. *Mangles.*] Is there not a standing rule that the quartermaster of every corps is bound to look after the feeding of the cattle?—No; I am not aware of any such rule.

940. Mr. *Elliot.*] I understood you to say that you would recommend the native agent, who is the person now entrusted with providing the general supplies in war, to be discontinued?—I would not entrust the general supplies of an army to a single man.

941. Will you have the goodness to state what you would substitute in place of that general agent?—I would make the officers of the commissariat responsible; they should use their own means, and the resources of their own divisions for the supply.

942. Mr. *Hume.*] You would prefer European responsibility, in every case where it can be available, to native responsibility?—Certainly.

943. Sir *R. H. Inglis.*] To what extent had the earlier part of your examination reference to the supply of native troops?—In field operations the supplies for the native troops are always laid in, but they are never used unless they are required by the natives; if they can get supplies elsewhere they do not come upon the commissariat for them; the native troops have not rations supplied to them by the commissariat as the European troops have; they only come upon the department when necessity requires them to do so.

944. Mr. *Hume.*] Is not the rule this, that each corps has its bazaar for the supply of the native troops, and provisions are kept in store under the commissariat, in case they should be required, but are never issued to the native troops till it appears to the commanding officer that the bazaar cannot supply them?—There are both suddur bazaars and regimental bazaars with an army in the field: if they can supply the troops they go to them, because the commissariat supply at certain fixed rates; if those rates are dearer than the bazaar they never come upon the department for supplies; if they are cheaper than the bazaar, then they come upon the department.

Lunæ, 7° die Martii, 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir George Grey.
Sir James W. Hogg.	Mr. Edward Ellice.
Mr. Vernon Smith.	Mr. Mangles.
Sir T. H. Maddock.	Mr. Spooner.
Mr. J. FitzGerald.	Mr. Lowe.
Sir Charles Wood.	Mr. Hume.
Mr. Cobden.	Mr. Hardinge.
Mr. Elliot.	Viscount Jocelyn.
Mr. Hildyard.	Mr. Milner Gibson.
Mr. Disraeli.	Mr. Baillie.

THOMAS BARING, Esq. IN THE CHAIR.

James Cosmo Melvill, Esq., called in; and further Examined.

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945. *Chairman.*] IN what department of the India House is the business connected with the Indian navy, and other marine establishments of India, conducted?—In a separate branch of the Secretary's office, under the denomination of the Marine Branch.

946. Can you furnish information to the Committee to elucidate the origin of the Indian navy?—The rise of the Indian navy may be said to be almost coeval with that of the East India Company. In their earliest connexion with India they found it necessary to arm their mercantile ships for the purposes of protection; and as soon as any factories were established in India some of those ships were left to protect the factories against attacks of the Dutch and Portuguese, native states, and piratical hordes. Early in the 17th century, the Company, perceiving the inconvenience of so employing their mercantile ships, obtained the services of a large number of gun-boats, and from that moment they have

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have maintained a naval force on the western shores of India. This force has been altered and improved at various periods, and its present state of efficiency may be mainly ascribed to a code of law framed by the Legislative Council of India, since 1834, under the authority of an Act of Parliament.

947. Has that corps always been under martial law?—In the early charters from the Crown to the East India Company, especially in that by which Bombay was granted, a clause was introduced authorising the Company to maintain martial law in all their forces; and it was considered, generally, that under that authority the Company had power to administer that description of law. In 1807, however, serious doubts arose as to the validity of the power, in consequence of a seaman having deserted from the Bombay marine: a considerable arrear of wages was due to him, and of course, if martial law were in force, he forfeited the whole; he, however, was differently advised, and brought his action against the Company in the Recorder's Court. Sir James Mackintosh, then Recorder, declared from the bench that the powers claimed by the Company, under their charter, were too general for practical purposes, and consequently the man obtained his cause: and from that time desertions were frequent, and confusion arose, the marines being subject to the Army Mutiny Act, and the sailors considering themselves exempt. Years passed in fruitless attempts to obtain a remedy for this state of things, until, in the year 1827, it was suggested to place the Indian navy under the operation of the Army Mutiny Act, and to enlist the officers into a marine corps, giving the superintendent a commission as major-general. It was, at the same time, suggested that some officer should be placed at the head of the corps who was accustomed to the administration of martial law in the navy; and with that view it was agreed by the East India Company that in future the superintendent should be a captain in the Royal navy. The application of the Army Mutiny Act to the navy was found to be exceedingly inconvenient, especially in the constitution of courts martial; and at last, in the year 1844, an Act of Parliament was passed, authorising the Legislative Council of India to frame a code of naval law. That code was sent home for the previous approbation of the authorities in this country, and their approbation being given it was finally passed, and forms the law under which the corps is now administered.

948. What is the present constitution of the corps?—That of a military body for naval purposes, with a defined code, similar to the code in force in the Royal navy, subject to the orders of the local government and of the Government of India; under the command of an officer of the Royal navy, designated "Superintendent," which was the old title of the controlling officer of the corps, and designated also "Commander-in-Chief," for which purpose he receives a commission from the Court of Directors and from the local government: he is also a commodore of the first class, under the sanction of the Lords of the Admiralty, who gave him permission to use a broad pennant for that purpose.

949. In mentioning the "Local Government," you mean the Government of Bombay?—I mean the Government of Bombay; all acts of the Government of Bombay, as respects this corps, being subject to the control of the general Government of India, or the Court of Directors.

950. Are the ships usually built entirely in India?—Not always; the Company have occasionally built in England. I think they have built as many in the one country as in the other.

951. Which is found the most economical system?—Opinions vary with respect to that; the rate of building is supposed not to be higher at Bombay than in England; but upon the whole I am disposed to think that building at Bombay is the most economical, the vessels built there lasting so much longer than vessels built in England.

952. The vessels are built of teak?—They are built of teak; and I believe they are very well built; and generally speaking, they have the character of being much more durable than vessels built in England.

953. Are any iron vessels built there?—There are iron vessels, not used for sea purposes, belonging to the Indian navy, and used in an important part of the service committed to that corps, the occupation and navigation of the River Indus; but these vessels are built in England.

954. Have the officers of the Indian navy any relative rank with the officers of the army or of the Royal navy?—They have now; formerly the Court of Directors gave to the naval officers relative rank with the officers in the Company's

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pany's army, and that was maintained until the military arrangements of 1796, under which the officers in the Company's army got commissions from the Crown as well as from the Company, and as soon as that was the case the Company's commissions to their naval officers came to be disputed in questions of relative rank, and in that state the matter remained until the year 1827, when William the Fourth, then Duke of Clarence, and Lord High Admiral, granted a warrant defining the relative rank of the officers of the Indian navy with officers of the Royal navy; and under that warrant the Company's officers get a relative rank, upon the condition, that the Company's officers of each grade rank next after the lowest officer on the list of the same grade in the Royal navy.

955. Are you aware whether there is any feeling of jealousy on the part of officers of the Indian navy on account of the position of officers of the Royal navy?—Occasionally there may be a little feeling; but that arrangement was justified at the time upon the ground that as most of the officers of the Royal navy employed in India are low down in the list, rank according to date of commission would have had the effect of placing the Royal officers always under the Company's.

956. Will you specify the services that are performed by the Indian navy?—War service whenever required, the transport of troops and stores, the navigation of the Indus, the suppression of piracy, surveying, and the mail communication between Bombay and Aden and Suez.

957. Is the force at present maintained sufficient to perform those services?—I think it is. There is a little apprehension just now that the mail communication may be partially interrupted in consequence of a large portion of the force being employed in Ava; but two vessels of size and capacity have been ordered to be built, and they are in a very forward state at Bombay; as soon as they are complete, all apprehension will cease.

958. Will you state of what force the Indian navy is composed?—A receiving ship, two sloops of war, six brigs, 13 steam frigates, 12 iron vessels used for the Indus, two cutters, and two pattamars or native craft. The Committee will find a statement of the force in page 429 of the Appendix of last year.

959. Is that distinct from what is called the Bengal Marine Force?—Entirely distinct.

960. Will you state what is the total expense of the Indian navy?—A Return of it has been laid before the Committee, from which it will appear that, taking the average of the last five years, the gross annual expense of the Indian navy has been 376,180 *l.*, that being the expense incurred both in India and in England.

961. Sir *T. H. Maddock.*] Including the dock-yards and buildings?—Including the whole. Against that there is an average receipt of 62,145 *l.*, principally for passage-money in the vessels used as packets, making the net annual expenditure 314,035 *l.*, and that is still exclusive of 50,000 *l.* a year allowed by Her Majesty's Government in aid of the expense of steam communication between Bombay and Suez.

962. Mr. *Hume.*] To what does that bring down the net expense?—It brings down the net expense to 260,000 *l.*

963. *Chairman.*] There is a naval force also in Bengal; what is the extent of that?—That force consists of nine steam vessels for external service, and seven iron steam vessels, with eight accommodation boats for internal navigation; that is quite irrespective of what is called the "pilot service" in Bengal.

964. Is that under martial law in the same way as the Indian navy?—No, it is not.

965. Is it under mercantile law?—There is no distinct law applicable to it; whenever those vessels are employed in war service, as they have been, I apprehend they get either a temporary commission from the naval commander-in-chief under whom they are about to serve, or letters of marque, and in that way they become subject to martial law; I have no doubt that they are practically under martial law when they are employed conjointly with the Royal navy.

966. Viscount *Jocelyn.*] In the China war there were some steamers that came from the Calcutta force; were not those steamers under martial law?—I have no doubt they were, either by a temporary commission, or by letters of marque; Captain Hall, who commanded the "Nemesis," and who is waiting the pleasure of the Committee, will be able to explain it.

 967. *Chairman.*]

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967. *Chairman.*] You said that a portion of the vessels were for external service. what do you mean by external service?—I mean for communication between Calcutta and the Burmese and Tennasserim Provinces, and between Calcutta and Singapore and the Straits, and any service beyond. It has been thought necessary that the Government of India should have some force of that description at its immediate disposal.

968. Are those vessels sometimes lent to the British Government?—Yes; five vessels belonging to the Bengal force were lent to the British Government for service in China.

969. For that service the British Government paid?—They did; it is an item in the China account.

970. Mr. *Cobden.*] Was that during the war with China?—Yes.

971. *Chairman.*] At what expense is that Bengal force maintained?—The gross expense of the Bengal steam force, including that maintained both for internal and for external navigation, has been on the average of the last five years 82,240 *l.* a year. There has been a receipt in the same time, independently of the sum credited to the Company by Her Majesty's Government in the China account, of 26,760 *l.* a year, therefore the net charge is 61,480 *l.* per annum.

972. From what source is that receipt derived?—For freight and passage-money in the vessels employed on the Ganges.

973. You stated that the Indian navy is under the orders and control of the local government of Bombay, subject to the orders of the general government: under what orders is the Bengal portion of the navy?—Under the orders of the Government of India.

974. Would there be any difficulty or objection to amalgamating the two services?—The Court of Directors have repeatedly urged upon the Government of India to make an arrangement by which all vessels employed in Bengal should be commissioned as part of the Indian navy; but objections from time to time have been suggested, and difficulties which it has been found impracticable to surmount. Very recently a suggestion has been made to Lord Dalhousie by the superintendent of the marine in Bengal, proposing to amalgamate the force of Bengal with that of Bombay; and Lord Dalhousie has said that he considers it worth being considered, and that he only abstains from pronouncing a final opinion upon it pending the present operations in Burmah.

975. Do the officers of the Bengal navy take the same rank as those of the Indian navy?—No, they have no defined rank.

976. You have stated the origin of the Indian navy; will you state the origin of the Bengal marine?—From time to time the Bengal Government have required the services of a naval force, and especially after the first Burmese war the necessity of it became more apparent. I can give no other account of its origin, except that it seems to have been the result of accident and necessity.

977. Sir *T. H. Maddock.*] Were there any vessels maintained previously to the Burmese war in 1825?—Yes; I think there were. The "Diana" belonged to the Bengal Government, and was sent for service in the first Burmese war.

978. *Chairman.*] What course is pursued in procuring those ships; are they built by the Company, or purchased by the Company, or how are they procured?—The "Nemesis," and those other ships of considerable capacity, and drawing a small draught of water, which performed such important service in China, were all built in this country, under the orders of the Secret Committee.

979. The accounts of the navy are kept in England?—The accounts are all kept and audited at Bombay. The marine expenditure is shown in the abstract of the accounts that are sent to this country; but the details are all at Bombay.

980. Is the same course pursued with regard to the Bengal navy at Calcutta?—Yes, precisely.

981. Sir *T. H. Maddock.*] At the period when the Court of Directors gave orders for building the "Pluto," the "Nemesis," and four other vessels of the same description, which was shortly previously to the commencement of the Chinese war, were they not built entirely for the purpose of establishing steam communication along the Euphrates and the Persian Gulf?—They were built for general political service, and were under the orders of the Secret Committee.

982. They

982. They were built previously to the breaking out of the Chinese war?—They were; being ready at the time the Chinese war occurred, instead of being sent to Calcutta as had been intended, they were diverted and sent to China. *J. C. Melvill*, Esq. 7 March 1853.

983. Sir *G. Grey.*] How are those ships officered?—Those four vessels which I have particularised were officered in England. The Court of Directors selected officers of the Royal Navy to take charge of them, and they continued in charge for a considerable period. The other Bengal vessels are officered by persons selected by the Government of India.

984. Were the whole of the officers, as well as the commanding officers, taken from the Royal navy?—I think not.

985. How were they manned; under what arrangement?—Under an agreement to serve for three or four years; and I believe the Indian Government has required that the agreement shall specify that they shall be subject to the code of laws in use in the Indian navy; but we have understood that there is no legal power to enforce this.

986. Viscount *Jocelyn.*] Do you mean to say that most of the vessels in your service, which were employed in China, were commanded by officers belonging to the naval service of England?—I do.

987. Who was captain of the "Queen"?—The "Queen" was commanded by Captain Warden. But I spoke of the four iron vessels which were built in and went direct from this country.

988. Captain Warden neither belonged to the Queen's naval service nor to the Company's service?—He belonged to the pilot service.

989. Mr. *Elliot.*] Do the Calcutta navy, when on service, receive prize-money?—I think they do.

990. On the same scale as the Indian navy?—I am not certain; Captain Hall, who has been employed, will be able to tell the Committee.

991. Mr. *Cobden.*] What are the points upon the map within which you require the Indian navy to do the work which you have described, of protecting the sea from pirates in time of peace, and guarding commerce?—Within the limits of the Company's charter.

992. From the Straits of Malacca to the Persian Gulf?—Yes.

993. Do you reckon upon the assistance of any of the Queen's ships within that distance?—Not for the suppression of piracy. In case of necessity the Government of India apply to the naval commander-in-chief, and he always manifests the greatest disposition to meet such requisition.

994. But in ordinary times, for the protection of commerce along the whole coast of British India, you consider that navy sufficient?—Yes, I think so.

995. Sir *G. Grey.*] How are the vessels belonging to the Bombay navy manned; with Europeans or natives, or in what proportions?—There is a proportion of Europeans, and a proportion of natives; according to the latest return there were 3,860 men altogether, of whom 229 were officers, Europeans; and 1,789 were natives.

996. The whole of the officers are Europeans?—The whole of the officers are Europeans.

997. Does that include what are called "warrant officers"?—No; this does not include the warrant officers; commissioned officers.

998. Sir *J. Hogg.*] Is not the navy and its management, and its expenditure, subject to the Government of Bombay and the Supreme Government of India in the same manner as any other branch of the public service?—It is; there is no difference whatever.

999. Mr. *Elliot.*] Is not the Calcutta navy all manned by natives, except the officers?—No; partly by natives and partly by Europeans.

1000. Viscount *Jocelyn.*] Has the Governor-general of India any authority over the admiral of the station?—None whatever.

1001. He can give no orders to him?—No.

1002. Mr. *Hardinge.*] Has not the Persian Gulf been surveyed most accurately by the Indian navy?—It has.

1003. And those charts are very valuable?—They are considered so; and are constantly required for use on board the ships of the Royal navy.

1004. And that service is a very arduous service, is it not, from the unhealthiness of the climate?—I believe that to be the case.

1005. And there would have been great mortality in the Royal ships had they

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they been employed in that service, in consequence of the crews being Europeans?—It might be apprehended, certainly.

1006. Sir *T. H. Maddock*.] You have stated that the Bombay navy is subject to the control of the local Government, under the Supreme Government of India, in the same manner as the army; are all the expenses attending the Bombay navy, such as building ships and the construction of docks, also under the control of the Governor-general in Council?—Certainly; the Bombay Government cannot take a single step with respect to the construction of a dock, or the building of a vessel, or anything involving any expense beyond, I think, 10,000 rupees, without reference either to the Court of Directors or to the Government of India.

1007. Has it not occurred of late years that a large expenditure has been incurred on those accounts, without any objection from the Government of India, under direct orders from the Court of Directors?—No doubt the Court of Directors have full power to direct the building of ships, without reference to the Government of India, if they so think fit.

1008. Is that the only matter upon which they issue orders of that description to the local Government, not to the Supreme Government of India?—No; the rule is of universal application; there is no difference between a reference to the Court upon a military and a naval question. One uniform practice is pursued: the Court of Directors either refer it to the Government of India, or themselves decide the question, and communicate their decision to the local government.

1009. Has it been the case in practice that the raising of additional regiments in the Madras or the Bengal Presidency has ever been ordered or sanctioned by the Court of Directors by direct communication to those Governments?—I do not think there has been any increase to the regiments of Madras since 1834; there has been at Bombay; and, to the best of my recollection, that increase was made by order of the Court of Directors upon a reference from the Government of India. In like manner, the Government of India have repeatedly referred to the Court questions connected with the Indian navy, which had been submitted to the Government of India by the Government of Bombay, in the first instance, and upon which the two Governments had been in correspondence; and there being differences of opinion, the Government of India referred the questions for the decision of the Court.

1010. With reference to the vessels employed at sea from Bengal, have they of late years performed any essential services, partly of a military nature?—I think they have; they are rendering important service now in Ava.

1011. The question alludes to the period previous to the Burmese war?—They have been employed, I believe, in checking piracy in the Straits.

1012. Are they not capable of performing that service, the suppressing of piracy, in a more efficient manner than any description of ship in the Royal navy?—I cannot speak with respect to the Royal navy; but I think they are peculiarly efficient from their light draught of water, being enabled to run close in upon the coast.

1013. Has it been considered a hardship by the officers employed upon those occasions, in conjunction with and under the orders of officers of the Royal navy, that they have neither received a share of the prize-money commensurate with their services, nor have met with honorary distinctions in reward for those services?—I have no doubt it is felt to be a hardship that they are not a regularly commissioned service.

1014. Mr. *Hume*.] Are you aware that in China the vessels belonging to the Indian navy and those from Bengal were distinguished equally with any ships employed in that service?—I believe they were.

1015. Were they not mentioned with equal approbation in all the despatches?—They were.

1016. Were there not officers of the British navy serving with them in the same service, many of whom received honours for those services in China?—There were.

1017. Is it not the fact that there were many officers belonging to the Indian navy who also performed services which were considered by the Commander-in-chief as equally meritorious, who never received any honours from the Crown?—That is the fact; they were recommended for honours from the Crown; they were considered eligible, and yet they have never received any.

1018. Is

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1018. Is it considered a great hardship on the part of those men whose services were so valuable, that they have been so neglected?—I have frequently heard that stated.

1019. By whom were those representations of their services made?—Sir William Parker and Lord Dalhousie have both spoken in the highest terms of the services of the Indian navy.

1020. Have the Court of Directors ever placed before the Government the hardship of their officers serving in the same service as the Queen's navy, and never being rewarded?—They have made the strongest representations upon the subject.

1021. You have been asked respecting ships that were lent; is it not the fact that the "Nemesis," the "Phlegethon," and the "Pluto," were lent for years, and acted along with the Queen's ships?—Yes, that is the case.

1022. Are you not aware that Captain Wallidge commanded the "Nemesis," in 1849, along with the "Albatross," Captain Parker, in an action against the alleged pirates on that occasion?—I have seen that stated in some papers laid before the House of Commons.

1023. What situation had Captain Wallidge?—He was merely a captain appointed by the Bengal government.

1024. He was one of the officers appointed under the Presidency of Bengal?—He was.

1025. Has no question been raised before the Court of Directors or in India, as to the legality of those officers and men being employed in the war without either commissions from the Crown or letters of marque, or anything to authorise them to so act?—No; I have not heard of any such question being raised.

1026. Is it within your knowledge that they had no warrant from the Crown, or from any naval officer, or any letters of marque?—I have always supposed that they had authority from the naval Commander-in-chief, when they were called upon by him to act in conjoint operation with ships of the Royal navy, but I cannot speak with any degree of certainty upon that.

1027. Did not the officers employed in the service along with the Queen's troops, in the Straits and on the coast of Borneo, go far beyond the limits of what are called the Company's possessions in the Straits of Singapore?—Borneo is certainly not considered to be within the Company's jurisdiction, though it is within the limits of their charter.

1028. With respect to the actions on the coast of Borneo, are you aware whether the officers of the Indian navy shared in the head-money on any of those occasions where they have been employed to put down the pirates?—They shared in the head-money. I believe they were never employed in that service except at the request of the officer employed in the command of the Royal navy.

1029. They have never acted beyond the limits which you have stated unless in conjunction with, and under the orders of, a commander of Her Majesty's navy?—I believe not.

1030. Sir *T. H. Maddock.*] Or probably in consequence of instructions which the commanding officer of those vessels may have received from the Governor of Singapore?—No; I think the authority has always been from a commander of the Royal navy. I do not think the authority was from a Company's servant.

1031. Are not the vessels stationed in those seas all under the command of the Governor of Singapore?—No doubt they are all in communication with him.

1032. Mr. *Hume.*] Generally speaking, do not they require the orders of Colonel Butterworth, the Governor of Singapore, and is not it under his orders that they act?—I think the requisition came from the commanding officer of the Royal navy; the order may have gone through Colonel Butterworth, but the requisition for the particular service, I think, emanated from the Royal navy; then, of course, before the officer, the captain of the vessel, would go upon the service, he would get the orders from his own government, which in this particular case might be the Governor of Singapore.

1033. Are not the officers acting under the direction of Colonel Butterworth directed to report regularly to the Marine Department, or to some department in Bengal?—I imagine that there must be constant periodical reports from those places to the Bengal Government.

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1034. Do you receive at the India House regular returns from the Indian navy of their proceedings?—We do.

1035. From the officer superintending?—From the Bombay Government, upon reports made to that Government by the superintendent.

1036. Have you ever had at the head of the Indian marine any officer belonging to the Indian marine as commandant, or is it generally a Queen's officer?—Formerly a Company's officer, but now always a captain in the Royal navy.

1037. Has any application been made by the Court of Directors that their own officers, men who are considered capable of doing so, may be allowed to assume the command?—I think not; the present arrangement was in 1827, and it was made by the Court of Directors; and I am not aware of any instance in which the Court of Directors have proposed to supersede that arrangement by the appointment of a Company's officer to command the force.

1038. Then from the head of that department regular returns are received at the India House of the disposal and the proceedings of what is commonly called the regular Indian navy?—Yes.

1039. Are there any such returns in the India House of the Bengal marine force?—I think not periodically; to the best of my recollection, when this Committee called for a return of that description, we were obliged to send to India for it, and we have obtained it.

1040. There is a memorandum in the papers that no returns can be found except one; has any requisition from the Court of Directors gone to Bengal for the purpose of obtaining regular returns of the services of those ships?—I am not aware.

1041. Can you state how many of the Company's ships are now at Burmah?—I think there are 11 altogether.

1042. Taking the whole number in commission and in pay belonging to the Indian service, both the regular and the irregular, what is the total number at present, according to the last return?—There are 58 altogether, including Bengal.

1043. Has any proposition been made to consolidate the whole of those two services in India, so as to be able to reduce the number of Queen's ships there?—I have stated that Lord Dalhousie has under his consideration a proposal for amalgamating the two services.

1044. Would you supply the Committee with a copy of any despatches since the former Burmese war, or including the former Burmese war, containing instances in which the ships under the Company's orders have received the thanks of the Commander-in-chief of Her Majesty's ships at the time?—Such a return can be given.

1045. Will you have the goodness to prepare a short abstract, showing the occasions on which both services have been employed, distinguishing the regular and the irregular?—I will do so, upon receiving the order of the Committee.

1046. Sir *T. H. Maddock*.] Will you be so good as to inform the Committee what is the nature of the discipline which is maintained in the Calcutta Naval Force, in the same way as you have stated it with respect to the Indian Marine?—I believe there is practically very little difference; but I would rather that the Committee should ask the opinion of a professional officer who has been employed in one of those vessels; I take the liberty of referring the Committee to Captain Hall, who commanded the "Nemesis."

1047. Since the time of Captain Hall has there not been a court established at Calcutta?—Courts of Inquiry are frequently held.

1048. With reference to the employment of the Company's ships in the Straits of Malacca and to the Eastward, are not the steam vessels frequently obliged to go to Labuan to take in supplies of coal?—I believe that has been the case.

1049. Mr. *Mangles*.] You stated to the Committee that the Governor-general of India had no power to issue any orders to the Royal navy; was it not the case that Lord Wellesley was appointed Captain-general in order to give him that power?—I never heard of that.

1050. He was Captain-general?—He was, but I thought that had in view military rather than naval objects.

1051. Mr. *Elliot*.] Can you instance any particular case in which officers of the Royal navy have received a reward for their services, and in which officers of

of the Bombay marine of the same rank, who have been employed and have been equally mentioned in the orders, have been passed over?—I would take the case of Captain Hall himself, who was an officer in the Royal navy, but served in China as the commander of one of the East India Company's vessels appointed by the Court of Directors, with the permission of the Lords of the Admiralty. After most distinguished service in China he was promoted to the rank of Captain, but did not get the Order of the Bath, although many officers who were employed in the Queen's ships of the same rank as Captain Hall got their promotion and got the C. B. too. But the East India Company's officers got neither; they could not get promotion, it being a seniority service, and they failed in getting the C. B. I have mentioned particularly Captain Hall: perhaps his services were so conspicuous that I can hardly name any other officer in comparison with him; but I will take the liberty of naming Captain Ormsby, who was a most meritorious officer; he received the commendations of Sir William Parker, and was recommended for the Order of the Bath, but did not get it. *J. C. Melvill*, Esq. 7 March 1853.

1052. But being of the same rank with officers of the Royal navy, who did get it?—Yes.

1053. And employed in the same service?—Yes.

1054. The Bombay navy is a service of seniority?—It is.

1055. Therefore it would be impossible to reward an officer in the Bombay navy by giving him promotion?—It would be impossible.

1056. Mr. *Hume*.] Can you lay before the Committee an abstract of those two accounts of which you have given the results; namely, the gross expenditure for the Indian navy, and the receipts in reduction of that expenditure, including the 50,000 *l.* received from the Government for the postage department?—Yes, I can. Independently of the 50,000 *l.* received from the Government, the results which I have given are gathered from a return already before the Committee, dated the 25th of June 1852.

1057. Is there an account also of the gross and net expenditure on account of the Bengal irregular force?—No, there is not; perhaps the Committee would be pleased to call for that.

1058. Are you aware whether the vessels in Bengal are built by contract, or by any establishment of the Company there?—The "Tenasserim" was built at Moulmein; those four vessels which I have mentioned, and the "Queen," were built in England.

1059. Have not many others of those employed in Bengal been purchased ships, already built?—Some.

1060. Are you aware whether the majority have been built by contract or not?—I cannot say.

1061. Those built in England were built by contract?—They were.

1062. By whom?—Four of them were built by Mr. Laird, the four iron vessels; the "Queen," I think, was built by Mr. Wigram.

1063. Are you aware whether there occurred, after the time they sailed, any inconvenience or hinderance in their out-fitting or progress until their arrival in India?—I am not aware of any.

1064. Mr. *Elliot*.] Were those steam vessels?—Those five vessels, the "Proserpine," the "Phlegethon," the "Nemesis," the "Pluto," and the "Queen," were all steam vessels.

1065. Did they go out under steam or under sail?—Both.

1066. Mr. *Cobden*.] Were they all of iron?—The "Queen" was of wood, the others were of iron.

1067. Mr. *Hardinge*.] Are those vessels in the Presidency of Bengal all seaworthy and fit to go to sea?—Yes, I think so: most of them are now in Ava.

1068. How are the officers in the Bengal service appointed?—By the Bengal Government.

1069. Have they an examination to go through?—I believe they have.

1070. Under the marine superintendent?—Under the marine superintendent now; there is no Marine Board.

1071. When was the Marine Board abolished?—Eight or 10 years ago; it was an act of Lord Ellenborough, I think.

1072. Mr. *Hume*.] Are you aware whether any punishments have been inflicted

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inflicted on board of those ships which are not under martial law?—I am not aware.

1073. Are you aware whether there have been any courts martial, or courts of inquiry?—There have been no courts martial, but in each case there have been courts of inquiry. The result of the inquiry is reported to the Government, and the Government passes its decision.

1074. Sir *T. H. Maddock*.] Has any serious inconvenience arisen from the commanders of those vessels not having legal powers for punishment, or for the maintenance of discipline?—I think inconvenience must have arisen.

1075. Mr. *Hume*.] With regard to the medical officers, they belong to the Company's service and are supplied to the vessels from the Company's regular establishment?—Yes.

1076. On the same principle as those in the Bombay navy?—Yes.

1077. Then in that respect the medical department of that service is on an established footing?—Yes.

1078. But no other branch of the service is?—No other.

1079. In the Bombay marine do the officers enter as midshipmen and rise by seniority?—They enter as volunteers and become midshipmen; and after a certain period of service they pass an examination and become mates; and then they go on by seniority.

1080. Have any courts martial taken place in the Indian naval service?—Yes.

1081. Are the officers all entitled to half-pay and pension in case of wounds?—Yes: they have furlough and retired allowances analogous to those in the army.

1082. Are there any vessels particularly employed in the survey department of the Indian navy, or are they taken as circumstances may require from the other ships?—Generally speaking, the schooners and brigs are employed on survey. They are cheaper, and the work is done principally in boats.

1083. Are you able to state whether there are any, and if any, how many surveys completed by the Bombay marine that have not been published?—I am not aware that there are any. It is the practice now that as soon as a survey of any importance is completed, it is sent home and published immediately.

1084. Sir *T. H. Maddock*.] Has not the Supreme Government of India passed an Act for the discipline of the Indian navy?—Yes.

1085. Has any Act ever been passed for the discipline of that part of the navy which is subject to Bengal?—No; and I doubt whether the Legislative Council in India have the power of passing such an Act.

1086. Is it the case that there have been doubts felt in the Council in India about the power to pass such an Act, and that is the reason that such an Act has not hitherto been passed?—It was in consequence of doubts of the power of the Legislative Council of India to pass any Act subjecting the corps to martial law, that an Act of Parliament was passed authorizing the Legislative Council to pass a law affecting the Indian navy.

1087. Has it not been doubted whether the Supreme Government of India possesses any power of legislation or otherwise beyond low-water mark, or two miles beyond it, all round the coasts of the Peninsula of India?—I cannot speak to particular doubts that may have arisen.

1088. If that is the case, would it not be desirable to extend the power of the Governor-general in all cases over the India seas?—I think it very desirable that the Legislative Council of India should have ample power of legislation.

1089. Mr. *Elliot*.] You stated that Bombay built ships were much stronger than those built in England; can you state the average time that they calculate a Bombay ship to last?—No, I cannot. I have heard it stated that vessels from England are very soon worn out, and that vessels from India last almost for ever.

1090. At any rate, do you think that they will last double the time of an English built ship?—I think so.

1091. Consequently they are much more economical in the end?—That is my impression.

Captain

Captain *Frederick Thomas Powell*, called in; and Examined.

Capt. *F. T. Powell.*

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1092. *Chairman.*] YOU are an Officer of the Indian Navy?—Yes.

1093. How long have you belonged to that service, and what commission do you hold in it?—I have been in the service very nearly 30 years; I now hold a captain's commission.

1094. Is the Indian navy governed upon the principle of a seniority service; and do the officers rise in it progressively from the lowest to the highest grades?—Yes.

1095. Under whose immediate superintendence and orders is the Indian navy conducted?—Under an officer of the Royal navy, who is styled "Commodore Commander-in-chief" of the service.

1096. Is there any difference in the management and conduct of the vessels of the Indian navy when absent from Bombay, which the Committee understand to be the head-quarters of the force?—If the meaning of the question is, whether there is any difference in the discipline and management of the vessels as compared with what would take place in Bombay, certainly there is none.

1097. Are the different services of the Bombay marine all conducted on the same principle, whether in the Persian Gulf or in the Red Sea, or whether they are upon a distant service, when engaged with the Royal navy; is the service always conducted upon the same principle and upon the same system?—I think it is possible there may be some systems in the Indian navy which do not appertain to the Royal navy, and *vice versâ*, but I am not aware of any material difference.

1098. Will you state upon what particular services you have been employed in the Indian navy?—Nearly the first 14 years I was employed upon survey, and since that I have been employed in command of some of the vessels of war, also in China; and nearly the last six years in command of the flotilla on the Indus.

1099. You have been employed in co-operation with the Royal navy?—Yes.

1100. On what occasion, and during what period?—In China, during the latter part of the last war, about seven months.

1101. Have you ever been professionally employed on any service conjointly with any steam-vessels belonging to the Bengal presidency?—There were a few of the Bengal steamers acting in concert with the fleet in China during the time I served there.

1102. Has there been any practical inconvenience found from the mode in which officers of the Royal navy and the Indian navy take rank relatively with each other when acting in co-operation?—No; I think not.

1103. Have the two services generally worked in harmony?—Yes; certainly.

1104. Are there any shore appointments connected with the Indian navy which its officers can hold while on the active list?—There are three or four: the naval storekeeper, and the master attendant in Bombay; they are held by captains in the service; and the assistant to the Commander-in-chief.

1105. What is the highest rank to which an officer in the Indian navy can rise?—Captain is the highest rank, but we have the local rank of commodore; the senior officer employed in the Persian Gulf during the time that he is employed there, has the local rank of commodore.

1106. Is that period limited?—Yes, to three years.

1107. Can they be re-appointed to that command?—Not to that; the same officer might be appointed to command at Aden for a further period of three years.

1108. What are the peculiar advantages of being commodore?—He receives an extra allowance of pay.

1109. Has he any superiority of rank afterwards?—No.

1110. When he is removed from that station does his extra pay cease?—Yes, immediately.

1111. Sir *C. Wood.*] It is a temporary employment, like the employment of a captain in the Royal navy as commodore?—Precisely the same.

1112. *Chairman.*] Have you ever held any such appointment?—No.

1113. Nor any appointment on shore?—Nor any appointment on shore, except as I stated before, that I commanded the "Indus Flotilla" nearly six years; but the officer who commands that branch of the service is simply designated senior officer.

1114. What

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1114. What is the general description and character of the steam and other vessels composing the Indian navy, in comparison with the vessels of the Royal navy?—There are sloops of war, and brigs, and schooners, and there are several steamers: some of the latter have a heavy armament.

1115. As to their relative merits, should you think them equal in power and speed to vessels of the same size in the Royal navy?—The large steam vessels, I think, are equal to any steamers of their class in any part of the world; but the old and smaller steamers are decidedly deficient in the present day.

1116. Will you describe the mode in which those vessels are manned?—Partly by Europeans, partly by the natives of the country. When not employed in active war services I should think nearly one-third of the crews consist of natives of the country, but when the vessels are employed in active service, the coal trimmers and stokers are then the only natives on board besides the marines.

1117. Viscount *Jocelyn.*] Where do the natives generally come from that are employed in that service?—An island called Gogo, near Surat, north of Bombay.

1118. *Chairman.*] Then for survey and any other employment except war service, one-third of the men are natives?—In the vessels employed on the survey, I should think fully half the crew are natives, and the other half Europeans; the same is the case also, I think, in the packets.

1119. Are they armed and equipped, and provided with stores at Bombay?—They are armed and equipped entirely from the arsenal at Bombay; a quantity of the stores which are not procurable in India are sent from this country.

1120. Do you consider the vessels to be in all respects equal to those of the Royal navy?—They are equal to any vessels I have ever seen in their equipment and furnishing. As far as the equipment of the ship goes, I consider that they are equal to any vessels in the world.

1121. With regard to the maintenance of discipline on board, is it perfect, in your opinion?—I think so; it has been very much improved since the last Mutiny Act was given to the service.

1122. The discipline of the native seamen is good?—The natives are always very easily managed.

1123. Have you any suggestion for the improvement of the service, that you would wish to submit to the Committee?—No, I have not; certainly not as far as the discipline of the service is concerned.

1124. Nor with regard to the manning or equipping of the vessels?—No, I think they are very efficient under the present system.

1125. And except as regards the old vessels which you have mentioned, there is no fault to be found with their construction?—No; there will be improvement when the new ships which are now building are launched.

1126. There is a portion of the Indian navy always employed on the river Indus?—Yes.

1127. What portion is that?—It was first established when our army marched to Affghanistan, for the purpose of accompanying the army through Scinde, assisting in conveying military stores and troops, and since then it has been considerably increased. I think at present there are 10 or 11 small steamers on that river.

1128. For what objects?—Their duties now are the transport of troops and of military stores up and down the river; and they also convey merchandise, and a great number of passengers up and down the Indus.

1129. Then it is for the carrying on of traffic as well as for the protection of the river?—Yes.

1130. Do you employ iron steamers for that purpose?—Entirely.

1131. Sir *C. Wood.*] How high do they go up?—They have now a monthly communication to Moultan throughout the year, and if it is necessary to send more than one in a month, of course it is done; they also can ascend the Indus to a point called Kellabagh, which is immediately at the foot of the range of hills below Attock; but beyond those points I do not think any of the upper branches of the river Indus are navigable except during the inundation.

1132. *Chairman.*] What is the pay of a common European seamen?—It is liable to change; when the wages of the merchant seamen have risen to any considerable amount beyond that given by the East India Company, it has been necessary

necessary to increase the seamen's wages in the Indian navy, but at present I believe they get 2 *l.* a month, 20 rupees. Capt. *F. T. Powell.*

1133. Is that the ordinary rate?—That is the ordinary rate of an able seaman. 7 March 1853.

1134. What do you pay the native seamen?—They vary from eight rupees to twelve.

1135. Do you supply provisions to the natives as well as to the Europeans? —Yes.

1136. What is the proportionate rate of pay of officers of the Indian navy relatively to officers of the Royal navy?—Captains and commanders in the Indian navy are paid according to the class of vessel they command; I think there are five classes.

1137. Sir *G. Grey.*] Are the various ranks of officers, up to the rank of post captain, the same in the Indian navy as in the Royal navy?—Yes, with the exception that every rank of the Indian navy ranks below the same rank in the Royal navy.

1138. But an officer to attain the rank of post captain in the Indian navy must go through the same grades as in the Royal navy?—He must.

1139. Do you know what is the relative amount of pay in those various ranks, as compared with the Royal navy?—I cannot state.

1140. Sir *J. Hogg.*] Do officers of the Queen's navy, within certain specified limits, receive from the East India Company what is called "batta" as long as they are on service?—Yes: I cannot state exactly Her Majesty's pay, but I am aware that in each grade of the Royal navy they get a sum called "batta" given to them by the East India Company.

1141. Sir *G. Grey.*] But you do not know whether their pay, with the addition of the batta, equals or exceeds the pay of officers of the same rank in the Indian navy?—I think it exceeds the pay of officers of the same rank of the Indian navy.

1142. Is there a half-pay list in the Indian navy?—No; when officers are unemployed they draw half-pay; but it is so very seldom that any officer is unemployed in the Indian navy, except from sickness, that I scarcely know an instance of it.

1143. Is there any pension on retiring, after a certain number of years' service?—Yes.

1144. After what number of years?—After 22 years' service; an officer, after serving 22 years, is entitled to retire upon the pension of the rank that he then holds; but after a servitude of 30 years, any officer, whatever his rank may be, can retire upon a captain's pension.

1145. Sir *J. Hogg.*] Whether he has attained the rank of captain or not? —Yes.

1146. *Chairman.*] What is the amount of a captain's pension?—Three hundred and sixty pounds a year; and he can, ultimately, succeed to a senior pension of 800 *l.* a year, which is at present held by only four.

1147. Will you state how the midshipmen are appointed?—They are appointed as volunteers in this country by the Court of Directors, and on their arrival in India they are styled midshipmen, and then rise by seniority.

1148. Before going to India, or upon his arrival in India, does the officer pass any examination?—I believe the volunteers are now obliged to furnish a certificate from some factory that they are acquainted with the marine steam-engine, previously to going to India, and after they have been in India some years they must pass a regular examination before they can be promoted to be mate or lieutenant.

1149. How long must they serve before passing that examination?—Four years.

1150. Sir *T. H. Maddock.*] Is the age limited at which they can be appointed to the service?—I believe the ages are now from 15 to 18.

1151. Mr. *V. Smith.*] When once they have entered the service, is their promotion entirely by seniority?—Entirely by seniority.

1152. There is no deviation from that?—No.

1153. When they get to the higher ranks is there any deviation from the principle of seniority?—No.

1154. Viscount *Jocelyn.*] You do not mean to say that there is no selection for particular services?—There is no interference with the officers getting progressively up the list; but of course, if the Indian Government have any particular

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particular duty to perform, they have the power of selecting the officer whom they think best qualified for it.

1155. Mr. *V. Smith.*] Out of persons of equal rank?—Yes; or even an officer of a junior rank might be selected.

1156. Practically, do they ever select from the junior ranks?—Very rarely.

1157. *Chairman.*] Have you a copy of the regulations with you?—I have.

1158. Will you hand it in?—

[*The same was delivered in, and read as follows:*]

REGULATIONS for the Appointment of Volunteers to the Indian Navy.

THAT nominees shall not be under 15 years, or above 18 years of age, unless they shall have served on board a steam vessel, or under an engineer in a factory or foundry, from the completion of their 18th year, up to the time of their being put in nomination; and that in such case the nominees shall not exceed 19 years, and shall produce a certificate of their having been so employed.

That nominees shall produce a certificate that they have undergone an examination in arithmetic, and the elementary branches of nautical education, so far as to satisfy the Court, or any committee thereof, that they are qualified to enter upon the service.

That nominees shall produce a certificate from a respectable engineer, that they have acquired such a knowledge of marine engineering as to afford promise of efficient service on board a steam vessel.

That every person nominated for the Indian navy be required to produce a certificate from two practising surgeons, that he has no mental or bodily defect that may disqualify him for the service.

That no person who has been dismissed the army or navy, or who has been obliged to quit any school or institution for immoral or ungentlemanly conduct, will be appointed to the Indian navy.

That volunteers for the Indian navy be required to proceed to India within three months after their appointment shall be completed, or their appointment will be considered as forfeited, and that they be ranked from the date of sailing from Gravesend (by Lloyd's List) of the ships on which they may embark for the purpose of joining the service in India; that those who may embark at an outport be likewise ranked, upon the same principle, from the date of the ship's departure from such outport (by Lloyd's List); and that in the event of more than one volunteer proceeding on the same ship, they take rank with each other, according to the seniority of the nominating Director; the date and place of embarkation being certified under the hand of the officer in command of the ship.

That all volunteers appointed to the Indian navy subscribe to the Indian Navy Fund.

1159. Sir *T. H. Maddock.*] What number of ships are there usually employed under the command of the Commodore in the Persian Gulf?—Generally three; but frequently a steamer is sent from Bombay to go all round the Gulf.

1160. Do not Her Majesty's vessels occasionally visit the Persian Gulf?—They do.

1161. In the case of one of Her Majesty's vessels, and the vessels of the East India Company, which are under the command of a Commodore in the Persian Gulf, coming together, and having occasion to act together, would the Commodore command the officer of the Queen's ship, whether he happened to be a captain or commander?—If he were a commander, I should presume he would; but not if he were a captain.

1162. Have you ever known an instance in which a commanding officer of one of Her Majesty's vessels has acted under the command of an officer of the East India Company's service?—I do not remember an instance.

1163. Mr. *Hume.*] Have you ever served in company with Queen's ships?—Only in China.

1164. In that case, how was the rank arranged; how were the orders issued as respect the Queen's ships, the Indian navy, and the Bengal marine ships?—In China, on our arrival there, we placed ourselves under the orders of the Admiral, by whom we were appointed to different divisions, and then we came under the orders of the senior naval officer commanding that division.

1165. In the progress of the China war, various parties were landed, consisting of a joint force from different ships; how, in that case, did they act; did not the lieutenants in all cases act as captains; was not there one uniform rank in that service?—I cannot speak to that; I did not join the fleet in the Yangtse Kiang till after the operations were concluded.

1166. Mr. *Elliot.*] You mentioned that the ships were manned partly by Europeans, and partly by natives; have you any difficulty in finding Europeans to fill up the places of the natives at a moment of pressure?—Very great at times.

1167. Supposing

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1167. Supposing a war broke out, and you had to man a number of your ships with Europeans, would it be possible?—I do not think we could man the whole service immediately; but in a short time we could do it.

1168. Then for a certain time after such an event had taken place, one of your ships would hardly be fit to cope with any other ship of equal size belonging to any other naval power?—I think she would be able to cope with any other vessel of equal size, because we are allowed an extra number of natives for the number of Europeans that we are short. We are allowed at the rate of three natives for two Europeans; and having that additional number of men, I see no reason why the vessel would not be able to cope with any other vessel of the same size.

1169. You would have the same confidence in the natives in action as in Europeans?—No, I would not have the same confidence in action; but still I should not consider that the vessel would be inefficient, because it was partly manned by natives and partly by Europeans.

1170. *Chairman.*] Your different amount of confidence in the natives and in Europeans would have reference to their difference of physical power?—Yes.

1171. Mr. *V. Smith.*] You stated that you furnish both the European and the native seamen with provisions; how do you manage as to their feeding together?—They are not messed together; the natives mess separately, but they all cook at the same fire; the native seamen are Mahomedans.

1172. Mr. *Hardinge.*] Are not they all low caste men?—Mostly.

1173. Mr. *Hume.*] Had you any courts martial upon any officers or men of the Indian navy in China?—No.

1174. Had you courts martial during any part of your service in India?—Yes.

1175. Are any of the officers who commanded Bengal ships called upon or allowed to act as members of courts martial?—No.

1176. Have you known a court martial, or any court of inquiry, held on individuals belonging to Bengal ships?—I have served for such a very short time with them that I know very little of that branch of the Indian service.

1177. Have you ever served in Burmah?—No.

1178. How long were you in China?—Nearly seven months.

1179. Are you able to state what was the feeling of the service as regards the honours which the Crown has given to the Queen's officers and not to the Company's, although they were employed together in the same service?—There is a feeling of disappointment, certainly, in the service, that the officers of the Indian navy have been passed over when honours have been given to officers of Her Majesty's service for duties performed precisely the same and at the same time.

1180. In China did not the Company's ships share equally in the services with the Queen's?—Yes.

1181. In every service?—I should say so.

1182. As far as you had an opportunity of seeing, are you aware of any deficiency on their part in performing the duties assigned to them as compared with those of the Royal navy?—Certainly not.

1183. You have mentioned the Indian flotilla; does that consist of flat-bottomed boats drawing a small depth of water?—Entirely.

1184. Are they built in India or in this country?—They are made in this country and sent out in pieces, and put together in India.

1185. During the time that you served in the Indus, how did those vessels so put together perform; what was the efficiency of those vessels as to repairs?—Of course they required repairs occasionally, as all vessels must, but some of the original vessels employed upon the Indus were vessels sent on the Euphrates and Tigris in Colonel Chesney's expedition, and they are not so well adapted for the navigation of that river as those that have been more recently built.

1186. Are not a portion of the Indian regular navy employed in surveying?—Yes; nearly always.

1187. Is there any additional pay allowed for the surveying?—The surveyor and the assistant surveyor are allowed additional pay, but I believe it does not extend to the other officers. Formerly all the officers employed on a survey were allowed an extra allowance; now, only the officer at the head of the survey and his assistant are allowed anything extra.

1188. Is it within your knowledge that a large portion of the officers of the

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regular Indian navy are surveyors capable of performing, and having, in fact, performed, very important service since they have been in the service?—Yes.

1189. Are not they generally so?—Yes.

1190. Are any of the Queen's vessels employed in surveying any portion of the Red Sea or the coast of India, within your knowledge?—Not within my recollection.

1191. Do not their navigators depend on the surveys which have been made by the Company's officers, and are now in general use?—Insomuch that all vessels going to India are now, I believe, generally navigated by charts which have been compiled from the surveys of officers in the Indian navy.

1192. How are the charts supplied; is there any supply of charts kept at Bombay or any place where ships can obtain them?—Immediately that the charts are lithographed in this country, quantities are sent out to all the presidencies, and there is a depôt where they can always be purchased.

1193. Sir *T. H. Maddock.*] You mentioned that some disappointment had been felt by officers of the Indian navy who had not received distinctions for their services in China, being the same services that were rewarded by orders and distinctions in the case of officers of the Queen's navy. There were officers of the East India army serving on shore there with officers of Her Majesty's army; did those officers of the East India Company's army receive honours in the same way that the officers of Her Majesty's army did?—I believe so.

1194. Mr. *Hume.*] You stated that you had been obliged to increase the amount of wages to some of the seamen; what is the highest rate of wages that you have ever given to a seaman?—Twenty-two rupees.

1195. What is the ordinary pay?—At that time, I should think, it must have been 18; because now an able seaman gets 20, and an ordinary one 15.

1196. Is an officer commanding a ship authorised to give such increase, or must he obtain an order from the Government?—It must be an order of the Government.

Captain *William Hutcheon Hall*, R.N., F.R.S., was called in; and Examined.

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1197. *Chairman.*] WHAT rank do you hold in the Royal navy?—Post Captain.

1198. You were commander of one of the ships of the East India Company's navy?—I commanded the "Nemesis" throughout the Chinese war.

1199. How long were you there?—I joined the "Nemesis" in the latter end of 1839, at Liverpool, and I paid her off at Calcutta, at the beginning of 1843, after the Chinese war was over.

1200. You took her out as commander?—I did.

1201. During that service had you an opportunity of forming a judgment as to the efficiency of the Indian navy?—I had.

1202. What was your opinion as to the general efficiency of your own ship, in the first place?—I observed that when steamers in the two services were working together, the regular Indian navy was just as efficient as the Royal navy, taking the "Nemesis" as an instance; I could see no difference at all between them.

1203. As regards the way in which they were manned, was there any difference?—We did not consider that they were so well manned as the Royal navy, because they frequently had many natives on board; they were not all Europeans.

1204. What proportion of natives had you on board the "Nemesis"?—I had no natives on board the "Nemesis," with the exception of a few Chinese that we had on board from necessity.

1205. Were there natives on board the other vessels of the Indian navy employed in China at the time?—There were a few on board each.

1206. Do you know the proportion?—No, I do not.

1207. With regard to the officers, did you consider the vessels of the Indian navy to be as well officered as those of the Royal navy?—Yes, I think they were just as well officered; I never observed any difference as regards the ships from Bombay, the regular Indian navy.

1208. Do

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1208. Do you consider that the Indian navy is better found and better officered than the Bengal marine force?—Yes, I thought so.

1209. To what do you attribute the difference?—I think the officers of the Indian navy may be considered quite naval officers: the other officers are excellent seamen, and gallant men; but still they are not brought up to war like the Indian officers; they behaved very gallantly, but I never considered that their ships were in such fighting discipline as the regular Indian navy.

1210. Then your opinion, from your experience, is favourable as to the general efficiency of the Indian navy?—Yes.

1211. Are there any defects that occurred to your notice that would suggest any recommendations, on your part, to the Committee?—None that I remember.

1212. Sir *T. H. Maddock*.] Did your ship, the "Nemesis," belong to the Indian navy?—No; she was detached from England, under secret orders, upon particular service; there were four of them; I took out the first, the "Nemesis." I sailed from England under secret orders, with a direction from the East India Company to call at Ceylon to get further instructions from the Governor-general; and when I arrived at Ceylon I found orders there to proceed to China, and to put myself there under the naval Commander-in-chief.

1213. *Chairman*.] How were those four ships officered?—I had a lieutenant of the navy for my first officer; I had a mate of the navy for my second officer, and I had one that I selected myself for my third officer; but the senior officers were appointed by the East India Company.

1214. Were they all officers holding commissions in the Royal navy?—My first officer was a lieutenant in the Royal navy; the second was a mate in the Royal navy; and the third was a person who was recommended, but not belonging to any particular service.

1215. He had not been in the navy?—No; but he was a very good sailor.

1216. Viscount *Jocelyn*.] Had you any other officers besides?—I had a surgeon, and a purser.

1217. Were they in the Queen's service, or in the Company's service?—They were not in any service whatever; they were selected and appointed by the Company before going out.

1218. How was the ship manned?—I had 60 men, which I increased in China to 90.

1219. Was that the same complement as you would have had in a ship of the same size, in the Queen's service?—About the same, that is, 90 men.

1220. Mr. *Hume*.] How many guns had you?—I had two 32-pounders, shell-guns, from England, and I added afterwards six brass guns which I procured in China.

1221. How was discipline maintained in the ship; was it under the Queen's articles of war?—I had no articles of war. The fact is, I was obliged to maintain discipline in the best way that I could; I considered that they were all completely under the merchant system.

1222. Sir *G. Grey*.] Had you any other authority, as commander of the ship, than the captain of a merchant ship?—I had no other authority at all.

1223. Mr. *Hume*.] Would it not have been more satisfactory to you to have had the same articles of war as the Indian navy now have, to ensure discipline and order?—Certainly; but any authority was better than none.

1224. Sir *G. Grey*.] How long were you in command of that ship?—Upwards of three years.

1225. Did any serious inconvenience arise from that defect of authority?—Occasionally, but which I overcame.

1226. Mr. *Hume*.] Did you during that time carry out any punishments against the men?—I had no authority for any corporal punishment; of course I had certain minor punishments, but I treated the men well, and being firm with them, I had very little punishment indeed; I think throughout the whole of the war I punished only one man.

1227. What wages did you pay the men?—Three pounds a month.

1228. Did you continue that rate of pay all the time?—Yes; and to some that I engaged afterwards I was obliged to give 3*l*. 10*s*.

1229. Were the 60 whom you took out all able-bodied men?—Yes.

1230. All at 3*l*. a month?—Yes.

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1231. And those that were enrolled afterwards were on the same footing?—Yes; but to some I was obliged to give more when we were going up to the north, because after the war was over in the south of China we went to the north; of course I knew I should get no men there, and I was anxious to fill the complement up. I gave to some men whom I got out of an American ship 3 *l.* 10 *s.* a month.

1232. Viscount *Jocelyn.*] Had your ship any Lascars aboard?—No. I shipped three Kroomen on the coast of Africa in the passage from England. I thought they would answer very well as stokers.

1233. What were your firemen generally?—All Europeans, with the exception of six Chinamen whom I employed in China.

1234. Sir *G. Grey.*] You held the rank of captain?—I was a lieutenant, and got promoted.

1235. Did you and the other officers of the "Nemesis" receive the same rate of pay that was given to officers of the same rank serving in the Bengal marine?—I think not exactly the same rate; there was an agreement before we left England with the East India Company about our pay.

1236. Then your case was an exception to the general rule?—The four ships that were commanded by naval officers I believe were an exception to the general rule.

1237. Viscount *Jocelyn.*] Are you aware what the pay of the Queen's officers is in India?—When I commanded the "Dragon," the last ship which I commanded in the navy, my pay was 400 *l.* a year.

1238. What would your pay have been in India?—In the "Nemesis" it was 400 *l.* a year also.

1239. What would your pay have been in the "Dragon"?—I do not know; I think the East India Company give an extra allowance.

1240. Sir *G. Grey.*] When you were in command of the "Nemesis," were you in receipt of about the same rate of pay as the commander of a steamer of war of the same size belonging to the Royal navy employed in China?—I think it was about the same. I think the commanders of the steam frigates were not allowed any extra pay.

1241. Viscount *Jocelyn.*] Does not the batta that is allowed by the East India Company to the officers of the Royal navy employed in India, make up the pay to the same amount as that which they pay to their own officers of the same rank?—I do not know. I was never employed in India in a man-of-war.

1242. Sir *J. Hogg.*] There is no batta paid by the East India Company to the officers of the Queen's navy in China; that is without the limits?—That is without the limits.

1243. Mr. *Elliot.*] Have you received any prize-money for the services in China?—There were two payments of prize or batta-money; I received, I believe, the share of a field officer. The first award was made for the war in the South of China; the second for the campaign in the North. I received about 550 *l.* as my share of batta-money on each occasion.

1244. What is the distinction between batta and prize-money?—I do not know; it was called batta-money; that was all that we got.

1245. You shared in batta in the same proportion as a captain in a Queen's frigate would have done?—As a commander in the navy would have done.

1246. Mr. *V. Smith.*] Did you observe any jealousy between the two services, when employed together?—I did not; they worked together very cordially.

1247. Mr. *Cobden.*] Was the "Nemesis" an iron vessel?—Yes.

1248. Were you in action with her?—Yes; I was 32 times, I think, under fire.

1249. Had you shot through her?—Yes, on two or three occasions; in one action 13 shots struck her.

1250. How do you like an iron steamer, for the purposes of fighting?—I liked it.

1251. Would you rather have a wooden or an iron steamer to go into action with?—That would depend upon where I was going to fight: in China I should prefer iron vessels, because they are more efficient; they did not get into those sad scrapes which the wooden vessels got into; the latter got ashore, and got damaged, and were obliged to go to Bombay to repair, while the "Nemesis" remained

remained the whole of the war, and I could always repair her myself with the means I had on board. Capt. *W. H Hall*, R.N., F.R.S.

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1252. You are aware that there is a great prejudice on the part of the Admiralty against iron steamers for war purposes?—Yes. I have been very much astonished at the result of the trials that have taken place; they have altered my opinion with regard to large iron ships for European fighting.

1253. You were examined before a Committee on the Steam Navy, about three years ago, and in your evidence upon that occasion, you said that you would rather go into action with an iron steamer than a wooden one?—Yes.

1254. Have you seen any reason to change that opinion?—If I were appointed to a steamer going to Rangoon or to China, in war, I should prefer an iron steamer, similar to the "Nemesis," to a wooden one.

1255. Probably nobody else has had more experience of iron steamers under fire than yourself?—I do not know whether there is any one else who has had more.

1256. You stated that you easily repaired your iron steamer; did you find it to be the case when the vessel was struck with round shot that you could repair an iron steamer better than a wooden one?—As far as regards the damage we received, certainly; but from what has taken place since, it appears that in some instances the damage has been so great, that I have my doubts whether in European warfare it would answer as well.

1257. Did you find the shots rip the rivets?—No; perhaps I was not struck so often with large shot as to cause that.

1258. Mr. *V. Smith.*] What is the difference between European warfare and that in which you were engaged?—I think in China we did not consider that they were such good marksmen, or that the powder was so good, or that anything else was so good as in Europe.

1259. You mean that there is an increased liability to injury in European warfare?—Yes.

1260. Sir *G. Grey.*] In speaking of the increased efficiency of the iron steamboats in those waters, did you take into account the light draught of water?—I took into account the light draught of water; and their being built in compartments; we were constantly getting stove in on the rocks, and I only wanted the permission of the admiral for 24 hours to haul on shore and repair, when, if the steamer had been wooden, she would have had to leave the station.

1261. Then the greater efficiency of an iron steamer as compared with a wooden, was rather owing to circumstances peculiar to those seas, and to that warfare, than to any general advantages which an iron steamer possesses over a wooden, for fighting purposes?—Yes; I found an iron steamer more efficient in China than a wooden one, and therefore I should, if I were going to China, or to Burmah, prefer an iron to a wooden one.

1262. Viscount *Jocelyn.*] In going into action in deep water, would you prefer an iron ship or a wooden one?—I should have no objection to either.

1263. If you had your choice in going into action under heavy fire, which would you prefer?—For a small steamer for river purposes, I should prefer iron; but if you come to a large steamer for European purposes, from the experiments that I have lately seen as to the destruction of iron, I should begin to waver; perhaps I should prefer a wooden one; but whether it was in deep water or in shoal water, I think the great advantage of the iron vessel consists in being built in compartments. I do not think the depth of water signifies, because the whole of a compartment might be stove in; but still she would swim.

1264. Mr. *Hume.*] As regards splinters; did you find, on those occasions, when the shot came through your vessel, that there was anything in the way of splinters that did any injury?—No, I did not find that. One shot in passing through, left the iron it displaced still attached, and another shot took a piece clean out, and made a round hole.

1265. Did any of them rip up the rivets that fastened the sheets together?—No; not that I remember.

1266. Mr. *Cobden.*] When you say that you waver in your opinion as to whether you would prefer an iron to a wooden steamer in deep water, do you mean to say that in European warfare you would feel any objection or hesitation in going into action in an iron steamer?—None at all.

1267. Mr. *Hume.*] Looking at the service which is required from the navy

in

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in India generally, do you not consider that iron vessels generally are preferable, and less liable to accident than wooden-built ships?—I should always for Indian warfare have at least half iron ships.

1268. Mr. *Elliot*.] Were the shot which struck the "Nemesis" of large or small calibre?—Not very large; I suppose 12-pounders.

1269. Mr. *Hume*.] Did you find any difficulty in filling up your number of seamen, seeing that you could increase the wages to 3 *l*. 10 *s*., or more?—I found very great difficulty in getting men almost at any wages in China.

1270. Has any application been made on your behalf for honours, seeing that your services were equally distinguished with those officers of the Royal navy who have received honours?—There was a private application made to Sir John Hobhouse, who was at the head of the Board of Control, when the "Nemesis" came home.

1271. Did the Court of Directors make no application on your behalf?—Not that I am aware of.

1272. How many years were you in the navy before you took the command of the "Nemesis"?—About 25 years.

1273. Mr. *Elliot*.] Were you a commander at that time, or a post captain?—I was not either; I have been promoted since. I was made a post captain out of the Queen's yacht.

1274. Were there other commanders who gained the distinction of C. B. at that time?—I think there were 14 or 15 C. B.'s made altogether for that war.

1275. Were they of the rank of commander?—No; they never got the C. B. till they were of the rank of post captain.

1276. Sir *G. Grey*.] I understood you to say that you were a lieutenant in the navy at the time you commanded the "Nemesis"?—I was a master in the navy when I took command of the "Nemesis," but while I was in her I was made a lieutenant for my services, by Order in Council.

1277. On the termination of the Chinese war, when you gave up the command of the "Nemesis," were you promoted to the rank of a commander?—I was; the time I passed as lieutenant on board the "Nemesis" was allowed to count, by Order in Council; and I was then promoted by the Admiralty to the rank of commander.

1278. You were made a commander for your services in China?—Yes.

1279. And you were afterwards in the Queen's yacht, and you then obtained the rank of post captain?—Yes.

1280. Sir *J. Hogg*.] You said that several officers, after they were made post captains, got the honour of C. B.; at the time this service was performed, for which that honour was granted, were they not of the rank of commander, and did they not get the C. B. on becoming qualified for it by getting the rank of post captain?—I think most of the captains that obtained the C. B. for their services in China had arrived at the rank of post captain.

1281. They were post captains when the service was performed?—They were post captains when they left China.

1282. Were there several who could not get the honour of the C. B., because at the time the service was performed they had not obtained the necessary rank, but who upon subsequently obtaining the rank got the honour?—I think that was the case.

Ardaseer Cursetjee, Esq., F. R. S., called in; and Examined.

A. Cursetjee, Esq. F.R.S.

1283. *Chairman*.] ARE you in the service of the East India Company under the Bombay Government?—I am.

1284. What office do you hold at Bombay?—Chief Engineer and Inspector of Machinery.

1285. Under what circumstances are you now in this country?—On sick leave.

1286. Are you at the head of that department in the dockyard at Bombay?—I am.

1287. Under whose orders do you act?—The commander-in-chief of the Indian navy.

1288. What are your duties?—To inspect all the government vessels in Bombay, and to superintend the machinery, and keep them in proper order and repair them.

1289. What

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1289. What number of men are employed in your department?—It varies according to the nature of the work; sometimes 500, sometimes 600 or 700.

1290. What proportion of them are Europeans, and what proportion are natives of India?—Mostly natives, except the Europeans who are superintendents of the different works; the engineers of the sea-going vessels when they are on shore work in the factory.

1291. Are the foremen of the different workshops Europeans?—Yes.

1292. How long have you been employed in that particular department?—Ever since 1841, when I got the appointment.

1293. How did you obtain that appointment?—I came to this country to finish my education for my profession, and at that time there was an advertisement issued for a chief engineer and inspector of machinery, and I was a candidate, and Europeans with me in this country; the choice fell upon me and I received the appointment.

1294. Had you been previously employed in that department in Bombay before you came here?—I had paid a good deal of attention to steam engineering at Bombay; by the orders of the Government I was placed under the Mint engineer.

1295. When were you first employed under the Bombay Government?—In 1822 or 1823, as a shipwright.

1296. What age were you then?—About 14 or 15.

1297. Did you subsequently apply your studies specially to the engineering department?—I was raised to the situation of assistant builder in about 1832, and when steam navigation began, at the request of the master builder, who was at my head, I was placed by the Government under the Mint engineer.

1298. Do you consider the steam factory at Bombay to be perfectly efficient for the purposes for which it is used?—Quite efficient for every purpose.

1299. Have you constructed any steam-engines there?—Not to any great extent.

1300. What sized steam-engine have you constructed?—We have constructed a pair of small ones for our own purposes in the factory, about 10 or 15 horse engines.

1301. Do you think that the establishment there would be capable of manufacturing large steam-engines?—Yes.

1302. As good as those made in England?—Yes.

1303. Have you lately visited the United States?—Yes.

1304. Do you think that the steam factory at Bombay is capable of manufacturing large steam engines as good as those made in the United States?—Yes.

1305. Mr. *Hume.*] Under whom is the engineering department in Bombay?—It is under me.

1306. *Chairman.*] Do you make steam boilers there?—Yes, a great many.

1307. Are iron ships built at Bombay?—None built there, but we cut and lengthen a great many.

1308. The engines are sent out from England ready made?—Yes.

1309. You have not yet built an iron ship there?—No, we have not.

1310. You could build one?—Yes, we could.

1311. Are those small engines, which you have constructed, marine engines?—On the principle of marine engines.

1312. Would it be cheaper to construct engines in Bombay or in England?—I think it would be cheaper in Bombay.

1313. And iron ships?—Iron ships might be a little cheaper, but we have had no experience in building iron ships yet.

1314. The iron would all come from England?—Yes, but the workmanship is very cheap there, in comparison with what it is in England.

1315. The native workmen?—Yes.

1316. Mr. *Hume.*] What are the comparative wages there and here?—Taking the case of boiler-makers, we have European boiler-makers now at 200 rupees a month; the native boiler-makers get 16 rupees a month.

1317. *Chairman.*] With regard to building timber ships, where do you get the timber from?—From the Malabar coast; some from the northern coast above Bombay.

1318. All the timber is teak?—All teak, for building purposes.

1319. What is your idea as to the comparative economy of building teak ships, or building here of oak?—Teak ships built in India last a very long time; I have

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I have known them last 50 or 60 years, and they were then just as good as ever, while English ships never last more than seven to ten years.

1320. Where do you get your spars from?—Some from the Malabar coast, some from Singapore, and some from England.

1321. Are the spars which you get in India as good as those which you get from England?—Not quite so good, but they are cheaper.

1322. Where do you get your coal from, for your smithies and workshops?—All from England.

1323. You get your iron from England, and your coal from England?—Yes.

1324. Yet you think it would be cheaper to build iron ships there than in England?—Yes.

1325. What is your opinion as to the general character of the engines and machinery of the vessels now in the Indian service?—They are equally as good as what I have seen in this country and in America; a great many of them are made by the same makers who make for Her Majesty's service.

1326. And kept in as good repair and condition?—Yes.

1327. Have you found, of late years, that you could employ more natives in proportion to Europeans than when you first entered the service?—Yes; we employ a great many now; we bind them apprentices, and pay them wages, and teach them, and as they make progress we increase them in rank; some of them are promoted now to second-class engineers.

1328. Is there a disposition to employ them as much as possible?—Every disposition, and to give them every encouragement to improve, by teaching them, and giving them education, and we pay them wages at the same time.

1329. With regard to war steamers, do you think that they can be built as cheap with you as they can in England?—I think a little cheaper.

1330. On account of the lower rate of wages?—Yes.

1331. And there have been sailing vessels built?—Yes, and steamers too.

1332. Is yours the only Government engine factory in India, or is there any other?—There is no other steam factory in Bombay for repairing machinery except in Mint, on a small scale. The Peninsular and Oriental Company have established a factory, but on a very small scale; that is in Bombay, about two miles from the Company's dockyard at a place called Masayon.

1333. Are there any other private building yards or docks?—No.

1334. Is not there one on the Malabar coast?—Yes, there is one at Damaun, a Portuguese settlement, and one in Surat, and some on the Malabar coast at a place called Cochin, and other places.

1335. Have you, from your experience, any suggestion to make for the purpose of giving increased efficiency to the dockyard at Bombay or to the factory system there?—They have got every efficiency that I know of; some additional machinery was wanted, which I requested of the Honourable Court, and they have granted it.

1336. Sir *J. Hogg.*] You were first employed by the Bombay Government as a shipwright?—Yes.

1337. When you came to England to complete your education I believe the Government of India allowed you, during all the time of your absence, the pay of your situation and a further sum to pay your expenses in England during the period of your residence here?—Yes, they did.

1338. I believe there is a relation of yours in this country now for the purpose of completing his education, who is also allowed to retain his situation and his pay, and who also receives some assistance to pay his expenses while completing his education?—Yes, that is my own son.

1339. You stated you were at the head of the establishment at Bombay; are there any Europeans employed under you?—A great many.

1340. Mr. *Hardinge.*] Can you state how many?—It varies a great deal; sometimes the engineers are on naval service, and when they are not employed in the ships, there are a great many of them in the steam factory, sometimes 15 or 20 or 25.

1341. Sir *J. Hogg.*] What is the name of your first assistant?—Mr. M'Laren.

1342. He is a rather distinguished man?—Yes.

1343. With a large salary?—Yes.

1344. He is under your orders?—He is.

1345. Mr. *Hardinge.*] How many second-class engineers are there who are natives?

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natives?—There are three classes of engineers come out of this county, the first, second, and third class; the number varies very much.

1346. Are there any natives in the first class?—The natives, or country trained, have not arrived at the first class; some of them have arrived at the second.

1347. How many natives are there in the second class?—To the best of my recollection, more than half a dozen; they are Europeans, born in the country, Portuguese, and all castes.

1348. How many natives are there in the third class?—A much larger proportion, about 10 to 15 or more.

1349. Are there any Europeans in the third class?—A great many.

1350. What is the proportion of natives to Europeans in that class?—I should say about one-third natives, or country trained.

1351. What wages does a second-class engineer get, a native?—A native second-class engineer gets about 125 rupees a month.

1352. How much does a European get?—About 125 rupees a month, or same as native, except the steam money and pension.

1353. Have you found the native engineers who have been raised to that rank very efficient?—Very efficient.

1354. Sir *J. Hogg*.] What is your own salary?—Six hundred rupees a month.

1355. What is the salary of your first assistant?—Six hundred rupees a month.

1356. Mr. *Hume*.] What class of natives are employed by you?—Parsees, Hindoos, Mussulmen, all classes, including Christians half-caste.

1357. Have you found any difficulty in obtaining any number of workmen that you require for your purpose?—We had some difficulty when we were first established; but now we have brought up a great many men we do not find so much difficulty.

1358. Is there any school on the establishment in Bombay for the special education of the artificers or engineers?—There is a regular school in the dockyard, to teach them to read and write, also a schoolmaster attached to the receiving ship, to instruct engineer apprentices.

1359. Is there any established in Bombay out of the dockyard?—There are a great many schools in Bombay.

1360. Are there schools for engineering?—Not any specially for engineering.

1361. Sir *J. Hogg*.] Have you visited many of the dockyards and steam-engine factories in England since you arrived here?—Yes, I have, a great many, almost all the principal factories.

1362. Both in England and in Scotland?—Both in England and in Scotland.

1363. And for the same purpose you proceeded to America?—Yes.

1364. And you examined all the dockyards and factories in that country?—All the principal factories and dockyards in America.

1365. Mr. *Hume*.] What is your opinion as to the comparative efficiency of the dockyards in the United States, and here?—There is no comparison with our dockyards here in magnitude and in efficiency.

1366. Have you visited Calcutta?—I have not.

1367. What is the state of efficiency of the dockyard at Bombay as compared with the dockyards here?—It is very efficient as far as the dockyard is concerned; just as good as any dockyards I have seen here.

1368. Have you been in any private building-yards here?—Yes.

1369. Comparing any private yards with yours at Bombay, what would you say?—No private yard here is equal to our yard.

1370. Sir *G. Grey*.] You said that nothing but repairing has been done in your steam factory at Bombay; why have not engines been made?—Because we had so much to do; we can scarcely get through what we have to do.

1371. If you were to build steam-engines as well as repair them, you would have to increase the establishment?—Yes. Even in this country Her Majesty's dockyards never build their own engines.

1372. Then you do not recommend that engines should be built there?—I could do it if the establishment were augmented.

1373. Sir *T. H. Maddock*.] Do you depend entirely for the coal which you use upon the supply which is sent from England?—Yes.

1374. Have you never had occasion to try other coal which is found in India, or which comes from Borneo?—We had some coal from Nerbudda, and those

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coals, and the first sample was very good and very fine coal, but latterly the samples came with a great deal of mixture of other matter, so that it was not so good, and the cost was nearly three times as much as what we get from England.

1375. Was that in consequence of the expense of carriage?—It was the expense of carriage.

1376. Have you never seen the coal from Borneo and from Labuan?—I have seen some samples from Borneo.

1377. What is the quality of that coal?—Some of it appears to be very good coal.

1378. Sir *C. Wood.*] What is the price as compared with English coal?—I do not know the price of that.

1379. Sir *T. H. Maddock.*] With regard to iron, do you work up any iron which is the produce of India, or do you depend entirely upon England for your supply of iron?—We depend entirely upon England, but there is a manufactory near Madras, called Porto Novo.

1380. Did you never obtain any iron from Porto Novo?—We had some samples; we tried it.

1381. What is the comparative price of English coal at Bombay and here?—It is almost as cheap at Bombay as it is here.

1382. Sir *T. H. Maddock.*] What is the length of the largest dock at Bombay for the reception of iron or other steam-vessels; will the dock take in a three-decker?—Yes; we have built a great many 80-gun ships in our dock, and we have since lengthened the dock, and they are now lengthening it again the third time, since I left, in order to receive the largest steamers; the largest dock we have is 225 feet long, and that has been increased since I left; it is 63 feet wide between the gates.

1383. Mr. *Hardinge.*] Where do you get your wood for the masts from?—From Singapore, from the Malabar coast, and some from England.

1384. Sir *C. Wood.*] What sort of wood for masts do you get from the Malabar coast?—Poon.

1385. Do you make the masts of teak?—No; we make the masts of poon.

1386. Mr. *V. Smith.*] Is that a lighter wood than teak?—It is much lighter.

1387. *Chairman.*] Is it as light as pine?—Not quite.

1388. Viscount *Jocelyn.*] Do you get that on the Malabar coast?—Yes.

1389. Sir *C. Wood.*] Can you depend upon the supply of good teak now from the Malabar coast?—Yes, there is a great deal now supplied from the Malabar coast.

1390. As much as formerly?—Yes.

1391. Viscount *Jocelyn.*] What are the arrangements about wood on the Malabar coast; are there agents for the Government employed in cutting the wood, or is it brought to market by the natives?—There was an agent of the Government there when Her Majesty's ships were building at Bombay, to purchase wood and send it to Bombay; that agency has lately been removed.

1392. How is it done now?—The merchants bring it into the market.

1393. Sir *C. Wood.*] Do you remember the building of those ships which were built for the English navy at Bombay?—Yes.

1394. How many were built?—A great many.

1395. Has not that practice now been given up?—Yes.

1396. Mr. *Elliot.*] What time do you reckon that a teak ship ought to last upon the average?—I have known a ship now in existence more than 60 years.

1397. But upon the average, what would you reckon as the duration of a teak ship?—I never saw a teak ship built in Bombay, but some ships built at Coast were condemned, after a long time in use; condemned for rottenness or old age.

Jovis, 10° *die Martii*, 1853.

MEMBERS PRESENT.

Mr. Baring.
Mr. Herries.
Mr. Spooner.
Mr. Hardinge.
Sir James W. Hogg.
Lord John Russell.
Mr. Elliot.
Mr. Mangles.
Sir Charles Wood.
Mr. Hildyard.
Mr. Lowe.
Sir T. Herbert Maddock.
Mr. Vernon Smith.
Lord Jocelyn.
Mr. Labouchere.
Mr. Cobden.
Mr. Disraeli.
Mr. Baillie.
Sir George Grey.
Mr. Bankes.
Mr. Hume.

THOMAS BARING, Esq. in the Chair.

David Hill, Esq., called in; and Examined.

David Hill, Esq.

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1398. *Chairman.*] WILL you state to the Committee what situation you hold?—I am Assistant Examiner of Indian Correspondence in the East India House, and I am in charge of the Judicial Department.

1399. How long have you held that office?—Twenty-one years.

1400. Were you previously resident in India?—I was in the Company's civil service for 24 years in India.

1401. In what Presidency?—Madras.

1402. Will you, shortly, state to the Committee the system of judicature in India, describing it first as it exists at the Presidency towns?—The system consists of two separate parts, one for the Presidency towns, and one for the provinces. The Presidency town system is founded mainly upon Acts of Parliament and Royal letters patent, charters, and commissions to judges. It is mainly put in motion by the home authorities. The other system depends almost entirely upon local legislation and authority.

1403. With regard to the Presidency towns, what are the existing tribunals?—At each Presidency town there is a Supreme Court of Judicature. By its constitution, it has a chief justice and two puisne judges; but, in point of fact, for the last 15 or 16 years, the second puisne judgeship at Madras and Bombay has never been filled up. The court practically consists only of two judges.

1404. In Madras and Bombay it consists of two judges?—Yes.

1405. In Calcutta it consists of three?—Yes. By their constitution, they all consist of the same number. The constitutional formation of the court is the same in all three Presidencies; but the third appointment has not been filled up for 15 or 16 years at the two subordinate Presidencies.

1406. All those appointments are made by the Crown, are they not?—They are made by the Crown from members of the legal profession, either in England, in Ireland, or, I believe, in Scotland. No such appointment has ever taken place from Scotland, though the law, I believe, allows it.

1407. Are the appointments during good behaviour?—During pleasure; in point of fact, during good behaviour; but the judges are liable to be recalled, they have been recalled in one or two instances.

1408. Will you state to the Committee what is the nature of the causes which come before the Supreme Court?—The Supreme Court has jurisdiction locally over the Presidency town and personally over all British-born subjects throughout the limits of the territory subject to the Presidency. Its jurisdiction is local for the Presidency town and personal for all British-born subjects.

1409. Both criminal and civil jurisdiction?—Both criminal and civil.

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1410. Does it receive appeals from other courts?—In one instance, that of the Small Cause Court, there is something in the nature of an appeal; but there are no other subordinate courts belonging to that system from which appeals could come.

1411. Will you explain what other tribunals there are?—In 1850 a Small Cause Court was established in lieu of a Court of Requests, which had long before existed. The Small Cause Court is founded upon the model of the English County Court; it has jurisdiction to the extent of 500 rupees, or 50 *l*. It was only established in the beginning of 1850: it consists of one barrister and two other commissioners. The number of commissioners may be varied at the discretion of the Government; but it has been so constituted. One barrister is at the head of the court and there are two commissioners, one of the two being a native. I have brought with me a memorandum, showing the operation of that court for the first six months, the only Return received at home, which shows that it has been operating with extraordinary efficiency and success. The business which has been transacted has been on a very large scale, though the individual causes are of very small amount.—(*The same was delivered in.*)

Vide Appendix.

1412. Are the Committee to understand that no appeal from the Small Cause Court is allowed?—It is not exactly in the nature of an appeal. Any case involving a question of law may, with the concurrence of a judge of the Supreme Court, be transferred to that court; no case, however, under 100 rupees is open to be so transferred; if it is under 100 rupees it must be decided summarily; the court merely notes the plaint and the answer. The judges of the Supreme Court may at any time sit in the Supreme Court as judges of the County Court: they may act under the provisions of this special Act of the local Legislature as a Small Cause Court, instead of acting as the Supreme Court, and decide those small causes summarily.

1413. Will you state how that court is composed?—One English barrister is at the head of it; the second is a gentleman who has been many years employed as a commissioner of the former Court of Requests, and the third is a native.

1414. There is no jury?—No jury.

1415. Are there only two judges?—There are three judges, but they sit separately, and cases which involve questions of law are agreed among themselves to be handed over to the barrister to be decided.

1416. Your answers with respect to the Small Cause Court apply to Calcutta?—Exclusively.

1417. Is there any difference in the system existing in Madras and Bombay?—Similar courts have been established there, but we have no accounts in this country of the operation of those courts, further than that in a general way they have operated successfully.

1418. You know how they are composed?—Yes.

1419. What is the composition of the Small Cause Court in Madras?—At Madras it is not a lawyer who is at the head of it: a member of the legal profession was placed at the head of it at first, but, in consequence of the long previous service of the individual who had been at the head of the Court of Requests before, his claim to consideration was brought to the notice of the Court of Directors and their view was that, under all the circumstances, it was better that he should resume the same situation which he had formerly held at the head of the new court: he is not a member of the legal profession, but he had been above 20 years at the head of the Court of Requests and is very highly esteemed as a most efficient public servant.

1420. Are the appointments of the judges of the Small Cause Court made by the Governor in Council?—Yes, they are.

1421. Are they likewise during his pleasure?—They are.

1422. Is there any difference in the system existing in Bombay?—The Act is the same; it applies to all the three Presidencies: there is one Act for all the three Presidencies.

1423. Is there any other tribunal or judicial officer except those you have named in the Presidency towns?—The Government appoints the number of justices of the peace which may be required: there usually are three or four I think at Calcutta; as justices of the peace they exercise jurisdiction in all cases of assault and, under a particular Act lately passed to relieve the sessions of the Supreme Court, they have jurisdiction in larcenies to a very limited amount,

only

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only 20 rupees: the justices of the peace try those petty larcenies and also assaults: that relieves the Supreme Court in its criminal jurisdiction. There are no other judicial tribunals within the Presidency towns.

1424. The appointment of justices of the peace is by the Governor-general in Council?—Yes.

1425. Are they likewise during pleasure?—They are included in a general commission of the peace, which is issued by the Supreme Court at the instance of the Government, but the selection of names from this general commission and the appointment to a salaried office is made by the Government.

1426. Are they natives or Europeans?—There generally has been one native of late years. For upwards of 20 years the natives have been eligible to be in the commission of the peace and to serve on grand juries and on petty juries. There is no fixed rule, but there generally has been one native justice of the peace.

1427. What is the law which is administered in the Presidency towns?—The general law is the law of England, but the law as applicable to Mahomedans and Hindoos, in all matters relating to caste, to marriage, to succession and inheritance, and to religious institutions, is the law of their religion: the Supreme Court is required by statute to administer to Mahomedans and Hindoos their own law in those matters: in matters of contract the law is the same as with us.

1428. Have you any observation to make to the Committee which will supply them with any information as regards the system of judicature existing in the Presidency towns?—As to the operations of the Supreme Court the Company's officers have no knowledge. The judges of the court, or the practitioners, would be able to speak to the extent of business transacted and the mode in which it is done: it is done under English rules and the India House has no information respecting it.

1429. Will you explain now to the Committee what the system in the provinces is?—The system in the provinces is that all the Company's territories are parcelled out into districts called zillahs: a zillah commonly comprises 800,000 or 1,000,000 inhabitants: over that zillah is placed an officer of the Company's civil service exercising the functions of a civil and criminal or sessions judge, generally within the same range within which revenue authority is exercised by the collectors. The collector's jurisdiction is generally conterminous with that of the judge, and the collector in all parts of India except the Lower Provinces of Bengal holds the office of magistrate also, exercising certain limited criminal powers, and general authority over the police within that range: at the Presidency the Sudder Dewanny Adawlut is the chief civil court, exercising, as a Board, general superintendence and authority over those local judges, and, as a court, exercising appellate jurisdiction over their judicial acts.

1430. How is that sudder court composed?—The sudder court is composed, like others, of the Company's civil servants. In Calcutta there are five at present. The permanent constitution of the court is considered not to extend beyond four, but there are five judges at present exercising appellate jurisdiction in the last resort in India. An appeal lies from their decisions, if the amount exceeds 10,000 rupees, to the Queen in Council. Under the zillah judge there are native judges of different denominations exercising different scales of jurisdiction: the principal sudder amin is the highest; the sudder amin the next grade, and the moonsiff under him. The extent of the moonsiff's authority varies in different parts of India: his jurisdiction extends to 300 rupees in Bengal; the sudder amin's extends to 1,000 rupees; the principal sudder amin's is unlimited. The zillah court's jurisdiction begins at 5,000 rupees and is unlimited. A file is kept by the zillah judge and he distributes the cases to the principal sudder amins, or retains them for his own decision, as I suppose is the case here in the Court of Chancery, the Lord Chancellor distributing the cases to the Vice-Chancellors. An appeal lies to the Sudder Dewanny Adawlut: the Sudder Dewanny Adawlut may also if they see cause call up any original case exceeding 10,000 rupees and exercise an original jurisdiction; but they never do so. I am not aware of any case of the kind which has occurred. There always lies a second or special appeal to the Sudder Dewanny Adawlut from any decision which they may have reason to consider inconsistent with the law or

or the usage or practice of the courts: from any court whatever, however low its jurisdiction. If they believe that the decision in the first appeal has been at variance with the law or the usage or the practice of the courts, it is competent to the chief court, as it would be here in the Court of Queen's Bench, to call the cause up before them. The jurisdiction of native judges in the other Presidencies is not exactly the same: it runs higher. The moonsiff's jurisdiction at Madras, instead of 300 rupees, reaches as high as 1,000 rupees: the sudder amin's as high as 2,500 rupees: the principal sudder amin tries cases not exceeding 10,000 rupees. Those are only differences of detail, but the general constitution and operation of the courts are very much the same. The average amount of the cases tried by moonsiffs and judges of the lowest jurisdiction at Madras does not exceed 32 rupees. In Bengal the average value does not exceed 60 rupees. Of the original jurisdiction exercised by those tribunals there is only about one per cent. which is exercised by European or English judges, the Company's covenanted servants: including appeal cases, it is between six and seven per cent.; the remainder, comprising both appeals and original cases, is done by natives. Taking the original cases only there is only one per cent. done by English judges.

1431. The Sudder Court is entirely composed of Europeans?—It is.

1432. And the Zillah Court likewise?—Yes.

1433. Therefore it is the tribunals under those two highest courts which are composed principally of uncovenanted servants?—Yes.

1434. You have hitherto been referring to the civil judicature of the provinces; will you state what the system of criminal judicature is?—The tribunals, excepting the lower class of natives, are the same. The Sudder Dewanny Adawlut, under a different designation, namely, the Nizamut Adawlut, also exercises criminal jurisdiction. The zillah judge exercises criminal jurisdiction within the range of the zillah. The magistrate, who in most parts of India is also collector, exercises a limited jurisdiction, varying in different parts of India; petty offences, assaults, and thefts are tried by him or by his assistants: in the more heinous cases the offenders are committed by him to be tried before the sessions judge. The sessions judge has authority to try any case; but capital sentences or sentences of transportation must be submitted to the Nizamut Adawlut for confirmation.

1435. Is the sessions judge a covenanted servant of the Company?—The sessions judge is the zillah judge: the same individual holds the two offices: natives and uncovenanted servants of the Company exercise also in some cases very considerable jurisdiction, as assistants to the magistrates. There are deputy magistrates appointed throughout the Bengal provinces now who are uncovenanted officers and when duly qualified are authorised by the Government to exercise all the jurisdiction of a magistrate, which is limited; but it amounts to the power of imprisonment for a year.

1436. Those are uncovenanted servants, or natives of all classes, are they?—Yes. The object of the Government is, as far as they can, that they shall be natives, Mahomedans or Hindoos; but they did not find them at first so apt for all the duties of a magistrate and a great many of them have been half-castes, and some English.

1437. Are all those judicial officers who are uncovenanted servants and natives appointed by the Governor in Council?—The lower grades are not so: they are selected by the zillah judge in most cases; his nomination requires the sanction of the Sudder Court at the Presidency. He selects an individual to fill the office, and submits the name for the sanction of the superior court. The higher native judicial officers require the sanction of the Government: their names are submitted by the Sudder Court to the Government. The salaries are on a very moderate scale: as low, in some cases, as 50 rupees, or 5*l.* a month: all the salaries in India are paid by the month; they are as low as 50 rupees, but generally they vary from 70 or 80 rupees, up to 150 rupees a month. The salary of the next grade, the sudder ameen, is from 150 to 250 rupees; that of the highest class is from 400 to 600 rupees.

1438. What is the criminal law which is administered in the provinces?—The foundation of the criminal law administered by the courts was the Mahomedan law; but it has been so modified by the practice of our courts, through a long course of years, and by the enactments of the local government, that it has lost that character in a great measure: it is a law regulated by the

reason

reason of the thing: it is usually very moderate in its sanctions. The Mahomedan law involved mutilations, and other harsh punishments, and a number of very capricious rules of evidence: wherever the provisions of the Mahomedan law have been found contrary to humanity, or to what was looked on as a reasonable rule, they have been modified by the Government and the law has now come to be one very much of our own making.

1439. What is the character of the punishments inflicted on offenders?—Capital punishment to a limited extent: by the last return we have, it appears that there were 145 capital punishments inflicted all over India in one year.

1440. In what year was that?—1850.

1441. What is the nature of the capital punishment?—Hanging: there were 300 cases of transportation for life, transportation always being for life: punishment by imprisonment is carried to a very great extent. The difficulty which is found everywhere else of discovering any suitable secondary punishments, is found in a greater degree in India: the difficulty is enhanced very much by the climate and by other circumstances.

1442. To what place are the criminals transported?—To the eastern settlements, to the Straits of Malacca, and the Tenasserim Coast, the east coast of the Bay of Bengal.

1443. To what crimes is capital punishment applied?—To murder only.

1444. Mr. *Mangles.*] And to murder only of the worst kind?—Generally: the punishment is very moderately applied.

1445. *Chairman.*] Have you any further papers beyond what have been laid before the Committee that will show the amount of business which has come before the courts of India?—I will put in two statements, one showing the civil business for two years. It was prepared with a view of showing what the operation of the courts had been at the close of the last Charter Act in the year 1833, and what it was at the latest period to which complete returns were received; the two years compared are 1833 and 1849; this is simply a statement of the business transacted by each of the several courts in those two years. I have also brought a similar statement for the same years, 1833 and 1849, of the criminal business transacted by the several tribunals under the different Presidencies.—(*The same were delivered in.*) *Vide* Appendi

1446. Have you any statement which will exhibit to the Committee the number of appeals from the Supreme Court and the Sudder Courts to the Queen in Council?—Upon inquiry I find that we have not the means of furnishing any such statement; the information exists at the Privy Council Office.

1447. Mr. *Elliot.*] Imprisonment for life used to be a punishment very much resorted to, did not it?—Yes.

1448. Has not that been very much given up of late?—Yes, it has been very much discouraged from home, and transportation substituted for it.

1449. *Chairman.*] How is the Legislative Council composed?—It is composed of the same members as the Executive Government, with the addition of a fourth member, who by law is to sit and vote only when the Council is engaged in legislative proceedings.

1450. What is the nature of the authority of the Legislative Council?—With certain limits, their authority extends to the enactment of any law to operate upon any inhabitant of India, British-born, or native, or foreigner: the restrictions chiefly apply to the Queen's prerogative. Another restriction is that they are not authorised to impose the penalty of capital punishment upon a British-born subject without the sanction of the authorities in England. Excepting those limits, I think their authority is complete; they may pass any law which will be operative upon any inhabitant of the British territory in India.

1451. A civil or criminal law?—Yes. They have no power to alter the authority under which they exercise this power, nor any Act of Parliament which has been passed subsequent to the authority given to them. They can alter any Act of Parliament which was passed before 1833, but not any Act passed since.

1452. Will you state to the Committee what steps were taken to carry into effect the provisions of the last Act as to the Law Commission?—The Act provided that the members of the Commission should be recommended by the Court of Directors for appointment by the Government of India and accordingly the Court of Directors acting upon that provision, a Commission was appointed by the Government, in the year 1835, the year after the Act took effect.

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effect. The Commission was engaged in its duties for a good many years, but its numbers have not been filled up and now it has become extinct. They have executed only a small portion of the duty prescribed to them by the Act, and the vacancies have been allowed to remain without being filled up and at present there is practically no Law Commission.

1453. Will you state what portion of the duties which devolved upon the Law Commission have been executed?—Very soon after they were formed, the President of the Law Commission submitted to the Government that he conceived the duty which it was fittest for them to engage in was the preparation of a criminal code. They were authorised by the Government accordingly to proceed with that duty and, after the lapse of two or three years I think, they submitted, not a criminal code, a code for the administration of the criminal law, but a penal code, defining crimes and the punishments to be annexed to them. That code was communicated by the Government to Lord Auckland, Governor-general, who was at that time in the North-Western Provinces, at a distance from the Presidency. His view of the matter was that it was better that it should lie over for the consideration of persons conversant with such subjects, that it should be transmitted to England, and communicated to individuals who were best competent to form a judgment regarding its provisions. It did accordingly lie over for a long time. After the lapse of several years, the then Commission revised the criticisms upon the code which had been received from the individuals to whom it had been referred by the Government. The Law Commission then consisted only of Mr. Cameron and Mr. Eliott, the other vacancies not having been filled up. They submitted their observations upon the code in detail, giving not a general view of its merits, but a detailed examination of its provisions. The Government sent this home to the Court of Directors, asking whether they might now enact the code.

1454. Who was then Governor-general?—Lord Hardinge. The Court of Directors replied that they might do so, adopting such alterations and modifications of the code as they themselves, the Government of India, should deem necessary: that authority lay dormant: the Government did not act upon it. Probably other urgent matters interfered, as is too apt to happen from the Legislative Council and the Executive Government being identical: when there is a pressure of executive business the legislative work of course is allowed to lie over. It was not acted on till about a year and a half or two years ago, when it was proposed by the Government that the jurisdiction of the criminal courts throughout India, the zillah courts and the native tribunals, should extend to British-born subjects, which it does not at present. They have no jurisdiction over British-born subjects but only over natives: British-born subjects are amenable only in criminal matters with certain exceptions to the jurisdiction of the Supreme Court at the Presidency. It was proposed to extend the criminal jurisdiction of the local courts to British-born subjects, which Lord Dalhousie, the present Governor-general, highly approved of, till he came to Calcutta, and inquired what law was to be administered. When he learnt that the law was called the Mahomedan law and that it was only to be found in the Company's regulations and in the constructions of the criminal courts and the practice which had grown up in the course of years, he withdrew his sanction and stated that he could not concur in rendering his countrymen liable to suffer under the provisions of an unknown and barbarous Mahomedan law: and then he recurred to the sanction which had been given from home for the enactment of the penal code. He said the difficulty would be removed if that were done; and he wrote home to ask what the view of the Court of Directors was. Drafts of Bills for extending the jurisdiction of the Company's courts to British-born subjects had been sent home and an answer had gone out offering some suggestions regarding them; and with reference to that answer Lord Dalhousie asked whether it would not be desirable now to enact that penal code as a part of this new system of extending the criminal jurisdiction of the Company's courts to British-born subjects. The Court of Directors readily gave their approval to this suggestion and then the Government of India set to work to revise the penal code and to adopt such modifications as under the former instructions and the authority which had been given to pass it, they might deem necessary; the result was that the penal code was drawn afresh; it was put in a totally different form. The fourth member of the Council, Mr. Bethune disapproved of many of the peculiarities of the

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the penal code: he disapproved of the introduction of a totally new set of terms: he disapproved of what were called illustrations, suppositious cases to illustrate how the law was intended to operate: he conceived that it was not for the Legislature to construe the law. if the law did apply to a case the judge must apply it, but he could not be told beforehand whether it applied or not: two definitions might clash with each other. The result was, that it was put into a totally different form, so that the two codes did not correspond: they did not admit of being compared with each other, but each had to be estimated according to its own separate merits. Lord Dalhousie expressed great approbation of the code as it was drawn by Mr. Bethune, but made no comparative observations as to whether one code was better than the other. He said, "This is a new draft, and it must go home now for the sanction of the authorities in England, that we may know which code is to be adopted." About a year ago instructions went out authorising the Government to enact the code, as they themselves might approve of it, and I suppose they are engaged in that work now.

1455. The Law Commission is now virtually extinct?—Practically it is extinct.

1456. Do you wish to make any suggestion to the Committee as to any change which it would be desirable to make in the Legislative Council?—It is perhaps rash and presumptuous in me to make any such suggestion; but I think the present Legislative Council is very ill constituted for its work. In my judgment, it ought to include the judges of the Supreme Court, the judges of the Sudder Court, the Advocate-general, and other individuals who are particularly qualified for the duty. The consideration of questions of that kind is a totally different thing from the management of the affairs of an executive government. My idea is that they ought to sit as a sort of parliament, and all their deliberations should be oral; they should not write minutes and hold themselves personally responsible for phraseology. They ought to decide only whether such and such a law is desirable, whether the principle of the law is approved of, and then finally, in committee, whether the detailed provisions of the law correspond with their intentions.

1457. All the work of drawing up the minute should be done by others?—Yes: the Legislature ought to sit exclusively as a Council: they ought to sit in judgment upon the work they have desired to be done. They should give their instructions, and the law should be framed on such instructions. At a future meeting the Council should deliberate whether the principles of the Bill correspond with their intentions, and then the details should be gone through; but it should not be the duty of a Governor-general, administering the affairs of a great empire, to attend to the phraseology of the clauses of an act of Council, or to revise it with his own pen. My idea is that the work of legislation must be done finally in India: there is and can be no authority in this country to correct errors which occur there. All that can be done here is to approve or disapprove of the law as it has passed but not to revise legislative proceedings, as the acts of an administrative Government are revised. I think that can only be done on the spot by the Legislative Council and the Council ought to be made quite efficient for the purpose, which might be done by the fourth member of Council being assisted by a legislative secretary, and such a competent staff as would enable him to do the work prescribed to the Law Commission.

1458. Mr. *Hume*.] In the Legislative Council, as you would constitute it, would you include any natives as members?—I do not think the introduction of natives as members of the Council would be of use, but of course they would be very much resorted to by the members of the Council for information regarding their views, and wishes and feelings. They would only hamper the Council if they were associated with them.

1459. Is it your opinion that there are no natives in Bengal, either Mussulmans or Hindoos, whose qualifications would fit them, as members of the Council, to take part in discussions, such as you have properly stated ought to attend the formation of a law?—That is my opinion.

1460. Sir *T. H. Maddock*.] In a case where it is proposed to enact new laws affecting almost exclusively natives of India, the Hindoos for instance, do you think they ought not to be consulted?—I think they ought to be very much consulted: they would be, and they are.

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1461. How would you consult them if you did not admit them into the Legislature in any way?—I do not think their ideas or their manners are in common with ours so as to admit of the two being amalgamated in one Board. In my opinion it would defeat the object in view if they were admitted as members. The whole object would be much better attained by leaving the members of the Legislative Council to hold out of doors communications in the form they thought best with the natives who were able to supply what was wanted.

1462. You are no doubt aware that the natives of Bengal, Bahar, and Orissa have complained to Parliament of an enactment, numbered Act 21 of 1850, by which they assert that their religion and rights have been subverted; and they state in their petition that they remonstrated against the passing of that Act while it was under consideration; that their remonstrances were utterly neglected, and that the Act has been passed affecting their interests without their wishes and feelings having been attended to: how should such a course of legislation be prevented?—My belief is, that generally representations of that kind are got up at the instigation of some person who wants to raise difficulties: the real feelings of the natives are seldom truly represented in such remonstrances: they are much better ascertained by personal communication with individuals.

1463. Mr. *V. Smith.*] You spoke of the appointment of the judges, but in giving a history of those appointments, you did not state at what age they could be appointed?—There is a limit by law to the age at which admissions can take place into the Company's service and also to the amount of salary which a covenanted servant is competent to draw before certain periods: those limits would operate indirectly in fixing a certain age, but otherwise there is no fixed rule.

1464. Do you mean that he might be appointed a judge immediately upon his arrival?—He could not be so; he could not draw the salary, and the appointment would be illegal: he cannot enter the service till a certain age and he cannot receive a certain salary till he has been a certain number of years in the service: therefore incidentally the age is in some degree fixed.

1465. Those two circumstances combined would fix the age at which he could be appointed?—Yes: otherwise there is no positive provision made as to the age at which officers can hold particular appointments.

Frederic Millett, Esq., was called in; and Examined.

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1466. *Chairman.*] YOU have heard the evidence of the previous witness as to the general system of judicature and its application; do you concur in the general exactness of that statement?—Yes.

1467. What is your opinion as to the efficiency of the existing judicial system in India. Will you have the goodness first to refer to the system adopted in the provinces?—Our civil regulations were framed originally by Sir Elijah Impey, when he was made one of the judges of the Sudder Dewanny Adawlut. They were based upon the practice of the English courts, which I think, for small cases especially, is too complicated for the natives; a more simple mode of procedure is better adapted to their habits. I may mention, however, that if the regulations respecting the mode of procedure had been fully followed out, I think the inconvenience would have been much less than it is at present. I will exemplify what I mean by speaking of the pleadings in a case; instead of being simply such, they are full of irrelevant matter, and are a mixture of pleadings and arguments.

1468. Will you explain to the Committee what the mode adopted in drawing up those pleadings is?—They are all written.

1469. Are they taken down *vivâ voce* before the judge?—No; they are recorded in a written form, a plaint, an answer, a reply, and a rejoinder.

1470. Where are they taken?—They are taken in the court or in the office.

1471. Do you mean in the hearing of the judge?—No.

1472. Do you think that objectionable?—I think it is so specially in small cases. I think the natives would very much prefer being brought in person before the judge, and being confronted with each other; in that case very many of the cases which now go to great length would be stopped *in limine*. Our non-regulation provinces are better administered than the regulation provinces

vinces in that respect. It is stated that, in one of the districts of the Punjab, 34 per cent. of the cases are settled at once in that way. *F. Millett*, Esq.

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1473. You regard the pleadings as a source of delay in the administration of justice?—Yes, and not only of delay but of expense too.

1474. The remedy you would suggest would be that the parties should be heard before the judge himself?—Yes.

1475. That would do away with those pleadings which you speak of?—It would; at all events in most cases. Another rule is, that as soon as those pleadings are filed, the judge shall call up the case for hearing and draw the issues, and evidence only on those issues shall be called for. Instead of that, it is very much the practice of the courts, when those pleadings are completed, without hearing the case, to let the parties send for their own witnesses. Those witnesses are brought in and are examined; then when the judge takes up the case he finds a great deal that is irrelevant, and he has to do, perhaps, half the work over again.

1476. Is that the general course of proceeding in the provinces?—It used to be formerly, and I think it must be the same now to a certain extent; for about five or six years ago the Sudder Dewanny Adawlut at Agra recommended the Government to repeal the rule, because it was never observed.

1477. Is it optional with the judge to depart from the present complicated system?—No.

1478. Mr. *Hume*.] In what language are the depositions and statements given?—In the vernacular language of the country.

1479. By whom are those statements taken down from the mouths of the witnesses?—By the officers of the court.

1480. What are they denominated?—They have different names; there are various ministerial officers.

1481. What is their station and the average rate of pay which they receive?—The highest officer gets 100 rupees a month, and many of them only 12 rupees, and even seven rupees, a month.

1482. Has the person who gives the evidence an opportunity of examining what is given in to the court?—Very often the witnesses are discharged before the judge has had time to read over their evidence before them; but then it is always signed by the pleaders of both parties.

1483. Are the judges always capable of reading the vernacular language in which the reports are made?—Many of them are so now; formerly they used not to be.

1484. If they are not able to do so, are not they open to an unfair explanation by the party who may bring the matter before them?—Yes, if he be a very designing officer, certainly they are.

1485. *Chairman*.] Will you proceed with the statement of your views as to the defects of the existing system in the provinces?—I think it is the preparation of the cases in the first instance in which the disorder lies: if the pleadings were kept short, and to the purpose, there would be much less trouble. But I think in most cases the judge might, in the presence of both parties, take down their pleas, settle the issues at once, and call for whatever witnesses might be necessary.

1486. Have you any observation to make as to the system of criminal judicature in the provinces?—I think the principal evil lies in the multiplication of appeals since the year 1841; formerly the superior courts had only a power of revision, in case they considered anything to be wrong, but now every one has an appeal of right. There, also, the proceedings are too long: I think if the magistrate or the officer presiding wrote the pleadings and evidence with his own hands, much time might be saved.

1487. Have you any observation to make as to the system existing in the Presidency towns?—I have little information on that subject: the Small Cause Court, I understand, answers particularly well; the Queen's Court is one which is, of course, highly esteemed for its judicial decisions; the inconvenience is the expense of it.

1488. The Small Cause Court has been established since you left India?—Yes; I would beg to observe that I think one great mode of improving the administration of justice, as to the provinces, would be to incorporate the Queen's judges with the Sudder Dewanny Adawlut.

1489. You were Secretary to the Law Commission at one time?—Yes.

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1490. And subsequently a member of the Law Commission?—Yes.

1491. You have heard what has been stated upon that subject by the previous witness: have you any further observations to make as to the proceedings of the Law Commission?—There were a good many drafts of laws sent up; there was a draft of a law for the establishment of a subordinate civil court in Calcutta, which was meant to be a model court for the rest of the country, and also a subordinate criminal court; but neither of them came to anything.

1492. Would you recommend the renewal of that Law Commission?—Not on its former foundation; I would incorporate it with the Legislative Council.

1493. Would you add to the Legislative Council?—Yes; I would add the chief judge of the Supreme Court, a judge of the Sudder, and a member of the Board of Revenue, the Advocate-general, and the Secretary to the Government of India and the Secretary of Bengal; and, further, if there were no members of the Executive Council or Law Commission from Madras or Bombay, I would recommend a member from each of those Presidencies.

1494. Mr. *Hume*.] Would you recommend that any native whatever should form part of that Board?—I am not prepared to do so.

1495. *Chairman*.] You would leave the powers of the Legislative Council as they are?—I do not think they require to be extended.

1496. Would you regulate the proceedings of the Legislative Council, or would you leave that to their own discretion afterwards?—I would leave them a good deal to their own regulations, but I think their discussion should be oral, to avoid the necessity of minuting.

1497. Mr. *Hume*.] You would, in fact, abolish all pleadings, and leave the judge to take his own notes?—Yes, in small cases particularly; there are some cases which are more complicated, where pleadings might be necessary.

1498. Will you state whether any and what taxes are levied on the proceedings in courts of justice?—In the first place, the plaint must be on a stamp; up to 16 rupees, the stamp is one rupee; up to 32 rupees it is two rupees, and so on up to 50,000, when it is 1,000 rupees; and above that it is 2,000 rupees.

1499. Is that the case in all suits, civil and criminal?—No; merely in civil suits.

1500. That is the first charge?—It is.

1501. As regards the answers, what stamp is required?—They must be upon small stamps, according to the court in which they are brought; before the judge's court the stamp is higher than in the sudder amin's.

1502. Are all the proceedings which are put in as pleadings connected with the case required to be stamped?—They are, as also exhibits and lists of witnesses, excepting in the moonsiffs' courts.

1503. Is it your opinion, looking to the general poverty of the natives of India, that the taxes on justice should be continued as they now are, as a means of revenue to the State?—I should not mind their being collected as a revenue to the State, so that the losing party paid them all: I mean that nobody should pay them in the first instance, but that the losing party should pay them instead of their being anticipated; but then there would be a difficulty in collecting them.

1504. Is it the practice that the expenses are generally awarded against the losing party?—Yes, generally speaking; sometimes they are divided between the parties, as justice may require.

1505. Does that include the stamps upon originating the suit?—Yes, every stamp which is taken in the case.

1506. Looking at its effects as a check on applications for justice, do you consider the principle of a tax on legal proceedings to be a sound one and one which it is desirable to continue?—I do not think it is.

1507. That would be one of the reforms and improvements which you would propose?—Yes.

1508. Would not the abolition of written pleadings tend greatly to shorten the duration and lessen the expense of litigation, and would not it forward the decisions of the courts to a very great extent?—I think it would.

1509. Is not it the rule now, that magistrates sitting as judges in those courts, whether as assistants or as chiefs, shall themselves understand the vernacular language of the districts in which they are?—Certainly.

1510. Would not it tend therefore greatly to facilitate the administration of justice if in all cases the parties were brought face to face and there were *viva*

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voce examinations, leaving the notes to be taken by the judge on particular points?—Yes, I think so. *F. Millett, Esq.*

1511. Would those notes be sufficient in case of an appeal to a higher tribunal?—I think so. 10 March 1853.

1512. Would you allow all cases, however small, to be appealed, or would you limit the right of appeal to cases involving a considerable amount?—I would take away the appeal in cases of simple debt up to a certain amount.

1513. What amount would you fix, looking at the state of India?—Up to 10 rupees, perhaps.

1514. Looking to an appeal as founded upon the notes sent up, would not that tend greatly to increase the expense of every suit?—I think not.

1515. You would not put any stamp on the notes sent up to the appellate court?—No.

1516. With respect to the officers who take down the pleadings at the present moment, what is your opinion as to their honesty; how far does the openness to bribery, which has been frequently alleged, exist among them?—I believe most of them take speed money, or some kind of perquisite.

1517. What do you mean by speed money; does not the judge call on the cases according to their order upon his roll?—He does.

1518. Is there not an officer of the court who, by the desire of the judge, calls on the case?—Yes; that is on the hearing and trial of the case.

1519. What stage of the proceedings do you allude to as that in which speed money is taken?—I believe it is applied for very generally.

1520. In what stage of the proceedings?—Almost at every stage; in the filing of the pleadings, in summoning the witnesses, and so on.

1521. In what way would you put an end to the practice?—I doubt whether it could be put an end to entirely; the sums so taken are very small, and no complaints are made. My belief is founded on common report more than anything else.

1522. Would you suggest that a list should be made, and the cases called on according to their priority, no interference of other parties between the judge and the parties concerned being allowed?—The judge keeps a register of the cases, and he calls them up according as they are ready.

1523. You would abolish the taxes on the pleadings by abolishing the pleadings themselves; what other expenses are there which you would recommend to be reduced?—Those on the filing of exhibits, and summoning witnesses.

1524. Sir *G. Grey*.] We have heard of successive courts, each with distinct limits of jurisdiction, the Sudder Dewanny Adawlut being the ultimate court of appeal; is there an appeal from each inferior court to the court immediately above it, or is the appeal direct from any of those inferior courts to the Sudder Dewanny Adawlut?—From the moonsiff's court there is an appeal to the judge, and also from the sudder amin's court, and from the principal sudder amin's court there is an appeal to the judge, up to 5,000 rupees; above that an appeal lies to the Sudder Court, and from all the judges' decisions in original suits an appeal lies to the Sudder Court. Then as regards all points of law, by whatever tribunal the decision may be made, there is an appeal to the Sudder Court.

1525. What time must necessarily elapse between the institution of a suit in the lowest of those courts and the ultimate decision by the Sudder Adawlut, provided the decision is appealed against; does any considerable time elapse before the appeal is heard and decided?—They have facilitated the mode of disposing of appeals lately; if an appeal is brought, and there appears to be no reason for dissenting from the judgment, without summoning the respondent at all the appeal is decided against the appellant.

1526. What is the time which ordinarily elapses between the institution of a suit and the ultimate decision of it by the Court of Appeal?—In the Bengal provinces the average duration of a suit before the moonsiff is four months and nineteen days; in the North Western Provinces it is about two months and twenty-four days.

1527. What is the amount of the jurisdiction in the moonsiff's court?—Up to 300 rupees. Then, in the sudder amin's court, the time is about one year and four months in Bengal and in the North Western Provinces three months. In the principal sudder amin's court it is about seven months and two days in Bengal, and in the North Western Provinces three months and a half. In the judge's court it is one year seven months and twenty days in Bengal, and

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and seven months and a half in the North Western Provinces. In the Sudder Court it is eleven months and a half in Bengal, and five months and a half in the North Western Provinces.

1528. I understood you to say that you would recommend the incorporation of the Sudder Adawlut with the Supreme Court; do you mean that you would supersede the Sudder Adawlut and transfer its appellate jurisdiction to the Supreme Court?—I would take advantage of the legal knowledge of the Queen's judges, and appoint them to the Sudder Dewanny Adawlut; one of the Queen's judges should be the Chief Justice of the Sudder Dewanny Adawlut.

1529. Mr. *V. Smith.*] Is there any limit of time fixed by law beyond which an appeal cannot be made?—Yes; it is one month from the lowest courts, and three months, I think, to the Sudder Dewanny Adawlut.

1530. Mr. *Hume.*] What is the shortest period within which any suits are determined?—That I cannot say; I have stated the average only.

1531. *Chairman.*] Do you think that shows the fair average of the time?—I can only take it from the way in which the annual statements are made out: I have no other means of judging. The average for Bengal is for five years; that of the North Western Provinces is only for the year 1850.

1532. Sir *G. Grey.*] Complaints have been made of great delay in the courts in India; do you think there is any unnecessary delay in any of those courts, and how would you propose to obviate that inconvenience?—It was to that I referred when I spoke of confronting both parties before the judge.

1533. Does the present mode of taking evidence necessarily cause delay, which you think might be obviated?—Yes, I think so. The evidence is often taken at too great length.

1534. Sir *T. H. Maddock.*] Would you in the first instance require a written petition, or compel the plaintiff to come and make the complaint *vivâ voce*?—I should myself prefer that it should be *vivâ voce*; but I do not think it very much signifies, so that the defendant has due notice of the subject of the plaint.

1535. When you had taken either his written petition, or his *vivâ voce* complaint, would you send for the witnesses to substantiate that before you called up the defendant?—No; it is by calling up the defendant, and confronting the two parties, that the case might be got over at once; I would not send for the witnesses in the first instance.

1536. Mr. *Hume.*] Would not you leave it to the parties themselves to come accompanied by witnesses or not, as they might think fit?—I would not forbid their doing it; it might sometimes lead to the speedy termination of the suit.

1537. Mr. *Elliot.*] In what way would you amalgamate the Supreme Court and the Sudder Dewanny Adawlut?—By appointing the Queen's Judges to the Sudder Adawlut.

1538. To administer what law?—The same law which the Sudder Dewanny Adawlut now administers. I think there would be no difficulty now, from the mode in which the Sudder Dewanny Adawlut judges conduct the business.

1539. What law would they administer, supposing the distinction ceased, and there was but one Supreme Court?—I do not mean that there should be one Supreme Court; I would still keep up the Supreme Court as a Supreme Court for the jurisdiction of Calcutta.

1540. As well as the Sudder Dewanny?—Yes, I think it would be against the feelings of the Europeans to do away with the Supreme Court.

1541. Would you limit the jurisdiction of the Supreme Court further than it is limited at present?—No.

1542. How far does the Supreme Court now extend its jurisdiction in civil cases?—Its jurisdiction extends merely within the bounds of Calcutta.

1543. Any person who is constructively an inhabitant of Calcutta, in consequence of holding any property there, becomes liable to the jurisdiction of the Supreme Court for all his property which may be 500 miles distant, does he not?—All his property becomes liable for the execution of the decrees of the Supreme Court.

1544. Mr. *Hume.*] Supposing a man residing in Patna or Cawnpore is a partner in a house in Calcutta, or has any property there, does he become amenable to the Supreme Court in Calcutta, wherever he may be?—I really cannot say how that may be, but I know the constructions as to the jurisdiction of the Supreme Court have been very wide.

1545. Is it your opinion that the Supreme Court should have jurisdiction by appeal in all the provinces?—I do not say that.

1546. You

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1546. You are for limiting the jurisdiction strictly to Calcutta, as it now is?—Yes: I would not take away from its jurisdiction, nor add to it.

1547. The courts consist of European and native officers; what is your opinion as to the salaries and allowances to the European civil servants; are they adequate, or would you suggest any alteration?—I think, generally speaking, they are adequate.

1548. Looking to the natives employed about the courts, what is your opinion as to their salaries; are they now adequate, in your opinion, or would you make any change?—I think the salaries of the moonsiffs of the lower grade are much too small.

1549. How many grades are there?—There are two grades of moonsiffs; one grade has 100 rupees per month, and they rise by merit up to 150.

1550. Will you define what is the duty of the moonsiff who receives 100 rupees a month?—His duty is to try all cases up to 300 rupees.

1551. He is in fact a judge?—Yes; a judge of original jurisdiction.

1552. Does he as a judge of original jurisdiction receive pleadings in the way which you have stated?—He does.

1553. By whom are those pleadings prepared; supposing the amount of the debt to be only six or eight rupees, or whatever the amount may be, pleadings must be prepared?—Yes.

1554. Before whom and by whom are those pleadings prepared?—They are prepared by the agents of the parties themselves, or their pleaders.

1555. Are those agents servants of the court, employed by the Government, and responsible men, or who are they?—The pleaders are responsible men; the agents are not.

1556. Are the pleaders salaried officers?—No, they are not salaried officers; they are paid by fees, according to the amount of the case.

1557. You have stated that there are taxes paid on the plaints; there are fees paid also in court, and there are also fees paid to the parties who prepare the pleadings; what is the general amount of the last-mentioned fees?—Some of the fees to the agents employed about the courts are very small. If the parties appoint a vakeel, it is he who prepares the pleadings: I do not know what the fees of the vakeels are now.

1558. You say you think the salaries of the moonsiffs are too low?—Yes.

1559. What alteration would you recommend?—I should certainly make the lowest salary of a moonsiff 150 rupees a month, and the salary of the second grade 200 rupees a month; if the finances would allow, I would make the first 200.

1560. Would you apply that scale to all parts of India?—I am now speaking of the Bengal Presidency.

1561. Do you know whether the same practice prevails in the North-Western Provinces?—Yes.

1562. Mr. *Hardinge*.] What examination do the moonsiffs undergo before they are appointed?—They undergo an examination before committees sitting at the chief stations in the country, and consisting of the principal European and native officers at those stations. The examination is in the civil regulations and the rules of civil procedure.

1563. All the lower native judicial officers must be selected from among the moonsiffs?—It is not absolutely necessary, because the Government hold in their hands the option of appointing others: but, generally speaking, they rise from moonsiffs to be sudder amin, and from that to be principal amin.

1564. When were native deputy magistrates first appointed?—In 1843.

1565. Have the appeals from the decisions of officers of that grade increased or diminished since the appointment of natives?—The deputy magistrates appointed in 1843 were uncovenanted servants.

1566. Since their appointment have the appeals increased or diminished in number?—I cannot say that exactly; the evil of appeals is very great in the criminal department.

1567. Does the appeal from their decisions go to the magistrate direct, or to the principal sudder ameen?—It goes to the sessions judge.

1568. What is the language now used in the Sudder Court?—There are now sworn translators attached to the Court, who translate into English the papers of all suits brought before the Court. When the pleaders entertained by both parties understand English, the arguments are conducted in English; if not, they are conducted in the native language. Barristers of the Supreme Court are

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are now employed in the Sudder; many of the native pleaders also use the English language.

1569. In a purely native suit, what language is used in the Sudder Court?—It does not matter whether it is a purely native case or not, so that the pleaders employed understand English.

1570. Is it Hindostanee or Persian that is used?—Hindostanee.

1571. Was not it Persian before Lord Auckland's time?—Yes, it used to be Persian formerly.

1572. Does the punchayet system answer well, in your opinion, in the non-regulation provinces?—I am not experienced in the state of things in the non-regulation provinces, but I believe it does, from what I have read.

1573. In the regulation provinces the judge can always impanel a jury of these, cannot he?—He can, but it is almost a dead letter; there are very few cases tried by a jury.

1574. Are the vakeels, in your opinion, sufficiently well educated?—In all the zillah courts formerly there were not above one or two out of about 12 who used to attend the court who rendered the slightest aid to the judge in deciding cases; they were not well-educated, generally speaking. In the Sudder Court, again, there are very well-educated men.

1575. Viscount *Jocelyn*.] To what extent in the courts above the moonsiff's court are natives employed?—There are sudder ameens and principal sudder ameens above the moonsiffs.

1576. Has the appointment of natives in those courts been much extended of late years?—They have been very much more employed of late years; since the year 1831.

1577. What is your opinion, as far as your experience goes, of the mode in which they perform their judicial duties?—I think that they perform them very well, and certainly much better than many Europeans used to do formerly. I am now speaking of former days.

1578. Can you state whether, since the appointment of natives to a greater extent in those courts, the appeals have been more frequent to the courts above?—I cannot say; I have not the means of comparing the results of so many years.

1579. Mr. *Bankes*.] Has a moonsiff any criminal jurisdiction?—No; he may be appointed a deputy magistrate, but they are not often so employed. I think it would be a great advantage if they were, and for that reason, among others, I wish to increase their salaries.

1580. What criminal jurisdiction has the deputy magistrate?—He begins with small cases, and afterwards has special powers, to the extent of punishing with six months' imprisonment and imposing a fine of 200 rupees. Finally, he may have the full powers of a magistrate, and award two or three years' imprisonment for particular offences.

1581. What is the lowest court which is invested with the power of capital punishment or transportation for life?—No court lower than the Nizamut Adawlut; that is the highest Company's court.

1582. Mr. *Mangles*.] Mr. Hill stated that the primary jurisdiction of European judges amounted only to one per cent. upon the whole; is not it the case that the Government has been anxious to keep European officers merely for appellate jurisdiction, and for superintending the working of the system, and to throw the judicial business into the hands of native judges?—Yes.

1583. And that is the cause of the very small number of suits decided, primarily, by English judges?—Exactly so.

1584. They have been, in fact, employed to watch the working of the system, and as an appellate jurisdiction to see that the native judges performed their duties?—Yes.

1585. That has been the object of the Government, of late years, has not it?—Yes.

1586. Mr. *Elliot*.] In cases depending upon Mahomedan and Hindoo law, and affecting the customs and prejudices of the natives, do you think the Judicial Committee of the Privy Council, which now tries appeals to the Queen in Council, is a perfectly competent and satisfactory tribunal?—I do not know what proportion of cases, before the Privy Council, turn on points of Hindoo and Mahomedan law, and the customs of the natives.

1587. Do

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1587. Do you think that the constitution of the Judicial Committee would not be improved by the presence of an intelligent servant of the Company, who may have held high judicial situations in India?—Yes; I think it would.

1588. Do you think retired judges of the Supreme Court are equally well qualified for such an office by any practical experience which they can have obtained in the Supreme Court of the native prejudices and customs?—I should not think native prejudices and customs are much concerned in cases before the Supreme Courts; but I say this without having examined into the matter.

1589. Do you think, taking the whole judicial system as it exists, substantial justice is administered?—I doubt it in small cases; I think it is in all others, but there is great delay in it.

1590. *Chairman.*] Do you mean that justice is deferred, or that justice is not administered?—I mean that our system is too expensive and dilatory for small claims, which are therefore practically excluded from our courts. That in other cases justice is administered, but it is attended with great delay, and expense too.

1591. Mr. *Elliot.*] You consider the administration of justice as substantially satisfactory, as far as the decisions of the courts go?—Yes, I think so.

1592. The natives are generally considered a litigious people, are not they?—Yes, they are.

1593. Do you think, if there were no stamps used, the effect would be to multiply in a great degree the number of causes which are brought forward really for the sake of gaining time in the settlement of claims?—No, I think not; my object is to facilitate justice as much as possible.

1594. You do not think that the fact of there being stamp duties to pay has any effect in diminishing the number of causes?—I think the poor are kept out of Court now more than they would be; and so far the stamps tend to keep down the number of causes.

1595. Do you think that the stamp acts as a check upon trivial and improper questions being brought before the Court?—I think that the people who prefer unfounded claims are generally those who can afford to pay for the stamps.

1596. Mr. *Bankes.*] Where is the criminal code of the Mahomedan law which at present prevails in the Courts to be found?—There are various books of law; some have been translated into English.

1597. Is there any well-recognised code by means of which a person may make himself acquainted with the law as it actually prevails?—Yes, if he understands Arabic.

1598. Is there any recognised English translation of such a code?—No, not a translation of the whole code.

1599. Is it possible that a British subject may be tried by a law which he is not able to read in his own language?—In my previous answer I forgot the Hidaya, or Guide, a work which contains, I should say, all the Mahomedan criminal law, which was translated into English many years ago by order of the Government.

1600. May it not happen that a British subject may be amenable to the Mahomedan law in some distant province, and may be tried by a law which he has no means of understanding?—Most crimes are mentioned in our regulations, and the punishments apportioned to them; but the regulations contain few definitions of offences.

1601. Sir *C. Wood.*] A British subject would not be amenable to any Mahomedan criminal code, would he?—That is the only criminal law that the courts administer, but greatly modified by the regulations.

1602. Is a British subject in the provinces amenable to the Mahomedan criminal law?—He is not now; he is merely subject to the Supreme Court.

1603. Mr. *Bankes.*] Is that the case as to all offences?—Yes.

1604. Mr. *Mangles.*] If a European were accused of murder in the Upper Provinces he must be sent to the Supreme Court?—Yes.

1605. Sir *C. Wood.*] Is not it one of the great defects of the law of India, that a British subject, except in the Presidency towns, is amenable to no criminal law which can be administered on the spot?—I think lately there has been an extension of one of the provisions in the Act of the 53d of George the 3d, which gave a justice of the peace jurisdiction in cases where a British subject had ill-used a native; that, lawyers decided, only related to cases in which there

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there was a British subject on one side and a native on the other. Now I believe it has been extended to cases in which both sides may be British subjects.

1606. That is the summary jurisdiction which the English magistrate applies to British subjects now in the distant provinces?—Yes.

1607. Sir *J. Hogg*.] Is it not the fact, that a British subject in the provinces is not subject to the jurisdiction of any of the criminal courts, except in a few specified cases of assaults committed upon natives?—Yes.

1608. All other offences committed by a British subject within the provinces must be tried by the Supreme Court in Calcutta?—Exactly so; there are one or two exceptions, as where he becomes a public officer; that is, a moonsiff or sudder amin; then he is subject to the Company's courts for malversation.

1609. Mr. *Hume*.] Is it your opinion that that state of things should continue?—Certainly not.

1610. Are you of opinion that the laws, as regards both Europeans and natives, should be administered in the Upper Provinces as well as in Calcutta? —Every native and every European, whether he be French, German, Spanish, or Portuguese, is subject to our criminal courts; a British subject is the only exception. I think he ought to be made amenable to our courts; I think if he were made subject to our criminal courts to-morrow, no injustice would be done him.

1611. Sir *T. H. Maddock*.] Unless some measure of that kind is adopted, to render Englishmen subject to the courts of the country, will it not be absolutely necessary, in consequence of the increasing number of Europeans settled in the North Western Provinces of India, to provide another Supreme Court in those provinces?—I would rather make them amenable to ours.

1612. If that is not done, do not you consider that justice will require the establishment of another Supreme Court?—Justice will require some measure of that kind.

1613. Do you think it would be more desirable to make them amenable in all cases, except cases of felony, to the courts which now administer justice to all others?—Yes.

1614. Would you except cases of felony?—I would except capital cases only.

1615. Mr. *Hildyard*.] Do you think you could conveniently dispense with written pleadings in cases where you wish to retain the right of appeal?—I think so.

1616. To whom would you entrust the duty of drawing up the case for the decision of the Court of Appeal?—The judge should draw it up throughout.

1617. Would you entrust to the judge the duty of drawing up the case upon which an appeal was to be made against his own judgment?—In case of appeal his own judgment goes up as it stands; he makes no addition to it after appeal.

1618. It goes up at present upon the issues raised by the pleadings?—Yes.

1619. That you would dispense with and allow him to state the whole case from beginning to end?—I would allow him to draw the issues himself, as he is ordered to do under the regulations; the issues are drawn, or ought to be so, under his direction.

1620. Mr. *Elliot*.] Would not you extend the jurisdiction of the Company's courts, to enable them to inflict capital punishment in the case of murder by a European?—Yes. The exception of capital cases in my previous answer had reference to the limitation imposed on the legislative power of the local Government on this point.

1621. Sir *T. H. Maddock*.] In that case, if you would have British subjects and Europeans generally in the North Western Provinces tried by the provincial courts, why should not British subjects and other Europeans be tried at the same courts in the vicinity of Calcutta, and in Calcutta itself?—I would retain the jurisdiction of the Supreme Court in Calcutta, in deference to the feelings of the European inhabitants of the city.

Frederick James Halliday, Esq. called in; and Examined.

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1622. (*Chairman*.] WILL you state to the Committee for what period you have been in the service in India, and what situations you have held?—I went to the service originally in 1825; I left India about eight months ago; altogether I have been in the service between 27 and 28 years. I was employed during the first nine or ten years in subordinate offices of the Revenue and the Judicial

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Judicial Departments, according to the usual routine by which men rise, till I became a magistrate and collector; from that I became Secretary to the Board of Revenue in Calcutta, and a year afterwards Secretary to the Government of Bengal: that was in 1837; there I remained till 1848, when I became Secretary to the Government of India in the Home Department, in which capacity I was employed till I left India, eight months ago.

1623. You have heard the statement made by previous witnesses of the general system of judicature in India; is that in the main correct?—Yes.

1624. You have had very recent experience, and can therefore inform the Committee what you consider to be the present state of the judicial system; whether there are defects existing in it, and if so, what remedies you would suggest?—The present state of the judicial system is not thoroughly satisfactory; at the same time, I am not disposed to agree with the violent complaints which have been made against it by some parties; on the contrary, considering the great difficulties against which the Government always had to contend, the character of the people, as we took them in hand, being very corrupt, quite devoid of truth, and having no notion of integrity, or of the claims of the administration of justice, it is wonderful that so much has been done; even in my own time the improvement has been gradual, but certain and marked, and at the present moment, I can only say that it is astonishing how much is done, though I could wish a great deal more were done, and I expect to see great improvement in future, in consequence of the spirit which is existing there, and the intelligent and earnest desire on the part of all public men there to forward and improve the system in every possible way. The defect, I observe, is chiefly a want of simplicity and rapidity in the administration of civil justice, and in the lower departments, among the lower classes of judges, perhaps not a sufficient confidence in the minds of the people in their integrity, owing chiefly to their being insufficiently paid, and to the system being so complex, as to render it necessary that they should have about them a number of inferior officers, clerks and other ministerial officers, to whose malpractices, I believe, in a great measure, any bad character which may attach to those subordinate jurisdictions is chiefly owing. Of course the remedy would be to simplify the proceedings; to render the administration of justice, especially in the smaller classes of cases, more summary, and to pay the lower classes of judges better, so that they might be more trusted, so that you might in the smaller cases get rid of the necessity of appeals, which appeals are now encouraged only because you cannot feel yourself authorised in trusting, without appeal, a man paid at the rate of 120 *l.* to 180 *l.* a year, and exercising considerable judicial powers, the very necessity of this appeal rendering their proceedings complex, and, as I have said, obliging them to employ a number of ill-paid, hungry, and grasping ministerial officers. If those men were better paid they might, of course, be better trusted; you might then, I imagine, entrust the administration of justice somewhat upon the footing of the county courts in this country in all the mass of litigation, which is almost entirely of that petty and small character, to those men, that is to say, of the moonsiffs, of whom I am now speaking, without any regular and constant system of appeal. You might leave them, in cases of more importance, to proceed in a more formal and technical manner, and subject such cases to appeal; and you must, in that case, trust to the results of your observation of the appeals in the higher and more complex cases decided by them to enable you to judge whether, on the whole, they were administering justice in the larger class of small cases without appeal satisfactorily, and deal with them accordingly; I know of no better way of doing it than that. You cannot do without the assistance of the natives in the administration of justice, even if it were desirable that you should; and, on the whole, they have under my own eye so improved in character and integrity, so gradually purified themselves, and are evidently in such a process of self-purification, great exertion being made by the Government and the officers of the Government for that purpose, that there is every reason to hope that the improvement which I myself have seen, and now speak of, will be permanent and progressive.

1625. Sir *C. Wood.*] How is the mode of proceeding in the moonsiffs' courts regulated?—The mode of proceeding in the moonsiff's court is, on the whole, with trifling differences of detail, into which it is unnecessary to enter, the same as in the judge's court. The mode of proceeding in all the civil

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courts is, on the whole, the same; the technicality which is observed in an important and complicated suit before a zillah judge is exactly the same technicality which is observed in a trifling suit for a small debt of 10 rupees, or even five rupees, before a moonsiff; the consequence of which is, that though, all things considered, the decisions in those courts are wonderfully rapid, they are by no means so prompt as the nature of the cases before them requires. I think the average time that a case takes in a moonsiff's court, and I speak more of the moonsiffs, because they monopolise the greater part of the litigation of the country, is from four to five months, and I believe myself, that it would not be possible to get even an undefended case through a moonsiff's court under two months. I believe I am understating the time. It is quite clear that for such a people as we have to legislate for, who live from hand to mouth, and cannot go away from their agricultural concerns, and whose witnesses cannot be called and kept away for a length of time, and who have no means to pay agents, such a delay is, in fact, almost a prohibition. I have seen a statement, which I have no reason to distrust from any knowledge that I possess on the subject, that in a moonsiff's court the ordinary expenses of obtaining and executing a judgment for 10 rupees would be upwards of nine rupees, and the time, as I have stated, supposing it to be defended, would exceed certainly two or three months. Yet with all this, I think in the year 1850, so great is the demand for justice, the moonsiffs decided somewhere about 80,000 cases in Bengal alone, the number of moonsiffs being 220, or thereabouts, the average value of each case being only 60 or 61 rupees.

1626. By what authority could any alteration in this mode of proceeding be made?—The only authority would be that of the Legislature of India. The Legislature of India is quite competent to alter it, and the tendency of the opinion of public men and public acts and measures in India is quite in the direction to which I have been drawing the attention of the Committee, namely, to introduce what has only lately, I believe, been introduced into this country, summary jurisdiction in small civil cases, and the discouragement of appeal in such cases. Of course, you have to contend against the doubtful character, to say the best of it, which at present attaches, and for some years must attach, to comparatively untried natives; but great pains are taken in their selection, and some pains also in their education. The moonsiffs are incited by being made almost the sole recipients of promotion to the higher ranks of uncovenanted judges, and I think that very little more is wanting to make them what they should be than a more liberal rate of pay; that also is thoroughly understood, and I believe nothing has prevented its being acted on but the actual want of means. I have seen repeatedly, upon recent occasions, opinions recorded by the Government, to the effect that one of the very first measures of internal improvement to which any pecuniary means in their power should be devoted, was the better paying of the moonsiffs, being, as they are, the very foundation of the judicial system of the country.

1627. *Chairman.*] Are the Committee to understand, when you speak of better pay, that you would have superior persons in the station of moonsiffs, or that it would put them more beyond the reach of temptation?—I suppose both. I suppose that persons receiving better pay would be more out of the reach of temptation, and I suppose that that alone would attract superior persons to the service; besides, the general respectability of the whole class must of necessity be raised, and thereby a higher class of persons brought into it. But of course when I propose to raise the salaries of those men I propose also to look in every case for men of the highest possible qualifications, and it very probably would follow, that in raising the pay, the Government also would raise the standard of qualification. I would seek for men of a higher class, more considerable education and greater trustworthiness.

1628. Do the moonsiffs pass through any examination before they are appointed?—They do. At present the system by which the moonsiffs are selected is this: there is an annual examination held by committees in different parts of the country and by a central committee sitting in Calcutta, the committees being very carefully chosen, the central committee having at least one judge of the Sudder Court upon it. The committees in the country report to the central committee in Calcutta, and upon their reports, digested and corroborated by the committee in Calcutta, certain individuals who have passed the examination satisfactorily, receive diplomas qualifying them to have the preference

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ference for the appointment of moonsiff whenever it shall fall vacant. The names of those men are then recorded in the office of the Sudder Court, and as vacancies occur they are offered to those men in succession according to their standing on this list. Moonsiffs are no otherwise appointed except, I think, that the law officers of the court are considered by their position to have the right to the moonsiff's appointments, if they should be thought otherwise fit, without going through the process of examination, their position of native law officers being of itself a sufficient diploma.

1629. The Committee have been informed that the salary of the moonsiffs varies from 100 to 150 rupees a month?—One-fourth of the number have 150 rupees a month, the remainder 100 rupees a month; besides which they have a small and very inadequate allowance to enable them to provide clerks and stationery.

1630. Cannot they live comfortably upon that salary?—They cannot live in such a style as a person clothed with that amount of authority in Bengal would expect to live in.

1631. What would it be equivalent to in this country?—I have not sufficient experience to make any comparisons of that sort. The Sudder Court receives periodically from the judges of the zillahs, under whom the moonsiffs are placed, reports of their character and conduct; and they have also the means, by deciding special appeals from the decisions of the moonsiffs, of forming a judgment themselves of the character of those moonsiffs. From those sources the Sudder Court prepare a register, which is submitted every half year to the Government, in which the names of the moonsiffs entitled to promotion in consequence of their merit, with the reasons assigned, and all particulars regarding their conduct and character, are entered. From this register, which states the comparative fitness, and comparative merits and claims for promotion of those upon it, the Government is in the habit of selecting for vacancies to sudder aminships as they offer; so that a moonsiff who obtains the good opinion of his immediate superior, who is in the habit of constantly hearing appeals from him, and who, from being on the spot, has or ought to have the means of forming a sound opinion upon his conduct and character, is certain of having his name entered in this list of meritorious individuals, and certain, as a vacancy occurs, of being promoted according to the opinion entertained of his merits, and according to that only. In like manner, from similar lists sent up of the sudder amins, the class immediately above the moonsiffs, the Government selects for promotion to the principal sudder aminships, who are the highest class of judges appointed out of the covenanted service.

1632. You stated that great exertions were made for the improvement of the character of those who were appointed to native judicial offices; will you mention what exertions you alluded to?—I have already spoken of them. Great pains and labour are bestowed by those committees of which I speak in testing the qualifications and the acquirements of candidates for moonsiffships when they come before them. There are examinations, first of all, by the country committees, which again are most carefully sifted and tested by the Calcutta committee, so that, as far as possible, no person can obtain a diploma who has not passed a very severe examination. More than that, no person is allowed to enter the lists to compete at any of those examinations who has not received from the judge of a district a certificate that he is not disqualified by any known defect of character from being appointed to the situation which he is supposed to seek by coming to this examination. Again: after the judges are once appointed, pains are taken by sifting their judgments in appeal, of course, to ascertain what character they bear by examining the reports of the zillah judges, and by very carefully preparing this register which I have described. Every exertion, in fact, is made, which can be made to ensure the promotion and advancement only of the fittest persons.

1633. You have stated the course of appointment of the native judges; will you state to the Committee what is the course pursued in the appointment and promotion of those Europeans who are charged with judicial authority?—The general course of the service of a covenanted civil officer in Bengal after he leaves the College of Fort William is, that he is appointed an assistant to a magistrate and collector in the interior; in that capacity he has to decide petty cases of assault and civil matters of small importance, such as may be committed to him by the magistrate, his immediate superior; and he has also,

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under the collector, to transact such business, which often is *quasi* judicial, in the revenue department arising in the collector's office as the collector may think fit to intrust to him, always subject to the collector's own revision, and in the case of the magistrate, to the magistrate's revision. After a time spent in this way, if he is well reported of by his superior, his powers in both departments, and also his allowances, are increased; but of late years this has not been done without a second, and even a third, very strict examination, which goes to a very complete knowledge of the vernacular, and to an acquaintance with the laws and regulations and practice of the departments in which he has been serving and has to serve. After that he becomes usually a magistrate (I am now speaking of the Lower Provinces of Bengal), and in that capacity he may remain five or six years or more; he then becomes a collector, and usually after serving three or four years as a collector he becomes a judge of a zillah.

1634. Is there any inconvenience or objection to the union of the duties of a collector and those of a magistrate?—In the Lower Provinces of Bengal, except in two particular cases, which are considered exceptions to the general rule, the offices of magistrate and collector are not joined, but in every other part of India they are. I am so far from thinking that there is any objection to the union, that I think there are many reasons, though I was formerly of the contrary opinion, why the junction is advisable; and I am desirous myself to see the offices again joined in Lower Bengal, as they are in every other part of India at this moment.

1635. Will you state your reasons for that opinion?—I do not mean to say that, supposing the service to be large enough, and the means of paying them to be large enough, so that you could get men of sufficient experience sufficiently well paid to fill separately both offices, the separation might not be advisable, because, of course, it would leave to each officer more leisure, and give the opportunity for an undivided attention; but the fact is, you have neither men nor money, and the consequence, in Bengal, has been that the office of the magistrate has actually fallen into hands too young to hold it. It has been a general subject of complaint, and I think it has been a sound complaint, that the magistrates are, generally speaking, too young, especially when they are brought in contact, as in many parts of Bengal they necessarily are, with English planters. This will appear to be so when you consider the great jurisdiction they have, extending to a power of imprisonment for three years. There are a good many men in Bengal now who are exercising those large powers, who have not been more than five years in the country; and I should say that probably from five, and even four, to nine or ten years' residence in the country is about the average standing of a magistrate. By joining the magistracy with the collectorship, you obtain immediately greater experience and more mature age, and probably, on the whole, greater trustworthiness. At present, the duties of a collector in Lower Bengal are not sufficient by any means to occupy the whole of his time. When the offices were separated in Bengal, the case was otherwise; the collectors were very much overworked, and being pressed at that particular time to attend very closely to their duties in the Revenue department, there was a complaint, not unfounded, that they somewhat neglected the duties of the magistracy, and under that pressure, besides other reasons, the separation was made. That reason for the separation, at all events, does not exist now, but the collectors have full time to devote themselves to the principal part of the work of a magistrate in their districts: and I believe they would be very well occupied in so doing.

1636. The union of the two employments does not, in your opinion, injure the magisterial office in the native estimation?—Not at all; on the contrary, I believe, in the native estimation, the idea of a union and fusion of all authorities in one hand is very familiar, and very much approved of; and that the true native idea of governing a district, would be by one person exercising all the authority in all branches, as is now actually done in the Punjaub, though I do not pretend to say that I could advise it in Bengal at present. So far as it goes, however, the union of the magistracy and the collectorship would be a step towards a union of offices.

1637. Is the frequent removal which occurs of Europeans employed in judicial offices, from one province or one district to another, injurious to the administration of justice?—The fact that there are frequent removals exists, though it has been very greatly exaggerated; and no doubt, so far as it exists, it

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it is and must be an evil, especially when you consider that there are various languages spoken in different parts of the Presidency; and that, owing to the actual exigencies of the service, you are often obliged against your will, according to a system which I hope will before very long be amended if possible, to send a man from a district the language of which he understands, to a district the language of which he says he hopes he may by and by understand.

1638. What remedy for that evil would you propose?—The remedy has commenced already, by a very stringent examination in the languages, first in the College of Fort William, which always existed; secondly, an examination after the young man has been a year out of the college, to test his further progress; and thirdly, a very severe examination, before he can obtain the situation of magistrate. That has produced already, and will infallibly produce generally in the service, a much better knowledge of the vernacular than has ever prevailed heretofore: it has already produced it to a remarkable degree. When it has been a sufficient time in operation, and after sufficient notice, I see no reason why the Government should not, in principle, refuse to send men to districts in the language of which they have not previously passed an examination. That would be at present impracticable, but things are tending towards it, and I have no doubt it will ultimately be adopted.

1639. Is there any other inconvenience arising from a frequent change?—No doubt there is; a man always derives an advantage from a knowledge of the district and the people, and their customs and habits; he also knows the course of litigation, and he probably may be in the middle of a number of suits, which are suddenly broken off on his removal. In that sense, change must, of course, be prejudicial. On the other hand, it is not desirable, in India particularly, that men should be kept permanently, or for any great length of time, in one district; they not only acquire prejudices, and perhaps, owing to the extraordinary tact of the natives, get imbued with little party fancies and discussions, but also, in India particularly, it is I think extremely prejudicial to a man's health and energies to be kept very long in one station. Also, a reasonable amount of removal and change of men has a tendency to diffuse improvements; men see different methods of administration in different districts, and perhaps amend the existing method, and introduce their own improvements into the districts into which they are removed.

1640. Is it your view that the pay of the moonsiffs only is inadequate, or does your opinion of the inadequacy of the salaries apply to all the native judges?—I cannot say that I think the salaries of the classes above the moonsiffs are generally inadequate, though I think improvements might be made by introducing a few much higher salaries as special prizes in the various departments. At present, a man who has spent his whole life as a judge, in the service of the Government, may rise to a salary of 600 rupees a month, but he can rise no higher; after that, no exertion, no merit can raise him, in that department at all events; and I confess I think it would be an improvement, and probably a very economical mode of exciting a good spirit among the native judges, if a few larger prizes for natives, very large prizes, were placed before them as objects of hope, to be given, of course, only in cases of special merit.

1641. One improvement which you would suggest would be the simplification of legal proceedings; do you mean by that, what a witness has suggested, the abolition of written pleadings?—My notion is, that the system of oral pleading is scarcely applicable to complicated and difficult and important civil cases, so that I do not desire to introduce a system of oral pleading in the very heavy and intricate and important cases which do undoubtedly occur in our courts; what I meant was, that there is a very large mass of litigation to which I apprehend that a system of oral pleading and examination of the parties, and a prompt and paternal administration of justice, is particularly applicable, and to that class of litigation, which, in point of number, is the largest class, I see no reason why that summary system, without any attempt at appeal, should not be applied. Of the cases decided by the moonsiffs in the year 1850, which were some 80,000, I observe that full 50,000 were matters of small debt, and 17,000 or 18,000 were matters of small questions of rent; there might be even other cases, looking to the classes of suits which are given in some of the Returns, which would be suitable for such an administration of justice as I have in my mind, and if so, there is no doubt that the more formal and technical courts

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might be relieved to an immense extent by committing this great mass of petty litigation to a summary tribunal constituted in the manner I am supposing.

1642. The operation of the Small Cause Court at Calcutta has been beneficial, has not it?—Very beneficial; so beneficial that there has been recently a petition presented by the merchants and shopkeepers of Calcutta—persons, of course, deeply interested in it—for an extension of its jurisdiction from 500 rupees to 1,000 rupees, and a very general feeling exists that it is desirable to have it so extended; they also wish that its jurisdiction should be extended beyond Calcutta, into that part of the country round Calcutta which is called the Twenty-four Pergunnas, which at present is under the system of the Company's courts, to which I have before alluded. Owing to that petition the Government in India has determined to make the experiment of small cause courts, to be established first at different important centres in the interior, where such courts are likely to be particularly useful. A law has been actually framed, and is, to my knowledge, now under discussion for that purpose, and the intention is, if those courts should succeed, to extend them to other parts of the country, and, ultimately, to amend the system, precisely in the manner which I have suggested.

1643. Sir *G. Grey.*] Will those proposed courts supersede the native courts of which you have been speaking?—Entirely, in the class of cases to which I allude, but they will themselves be native courts.

1644. *Chairman.*] Was it proposed that Europeans or natives should preside in those courts?—There was a difference of opinion as to whether they should be natives or Europeans; nothing was decided upon the question.

1645. Mr. *Cobden.*] Will you describe the progressive pay of an European civilian?—A young man on his first arrival receives an allowance of 250 rupees a month, which after he has passed an examination in one language is increased to 300 rupees a month; on passing in two languages, he becomes an assistant to a magistrate and collector, in which capacity he receives 400 rupees a month; he is then called on to pass the second examination of which I have spoken, which he may do in a year, and might do in less; after that he may receive an addition to his salary of 100 rupees a month, making 500 rupees a month; he may probably remain for about two or even three years more upon that rate. But if he passes the third examination according to the recent system earlier, he will obtain the next step so much earlier, which is a salary of 700 rupees a month, given to what are called joint magistrates and deputy collectors. From that he rises to 900 rupees a month, which he may obtain in about nine years as magistrate, having I should say already exercised in other offices the powers of a magistrate, though not bearing the name nor drawing the salary. As a magistrate, according to the present system, a man may remain a great number of years, nine or ten years. The more recently appointed collectors are, I think, of at least 19 years' standing, and they receive a salary of 23,000 rupees a year. The expectation of promotion to a judgeship now-a-days is not under 24 years, and then a man receives a yearly salary of 30,000 rupees. I should say, however, that I am describing what is considered to be a depressed state of the service with regard to promotion, and one which is very much complained of, but it actually exists at this moment.

1646. When you speak of arriving at the station of a judge with 30,000 rupees a year, does that still include the collectorship?—No; he has left the collectorship, and has passed to a judgeship.

1647. Will you be good enough to describe what is the difference between the functions of the highest class of native judges who get 600 rupees a month, and the highest class of European judges who get 30,000 rupees a year?—I am not aware of any difference, except that the European judge is a criminal judge; the other is only a civil judge, exercising in some cases also the power, greater or less, as the case may be, of a magistrate, but in a subordinate manner. Also, the judge hears appeals up to the value of 5,000 rupees from the officer to whom you allude—the uncovenanted judge at 600 rupees a month. In other respects, their functions are the same.

1648. Does the native judge decide cases of as large an amount as the other?—Quite as large an amount; they are both unlimited in amount.

1649. There is the right of appeal from the native to the European judge?—Yes, up to 5,000 rupees; beyond that, the appeal from the native judge goes to the Sudder Court.

1650. Mr. *Mangles.*] The European judge has, in fact, the superintendence of the system, and reports periodically to the Sudder Court as to the qualifications, the conduct, and character of those native judges?—He does; he is in fact responsible for the general administration of justice in his district.

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Lunæ, 14° *die Martii*, 1853.

MEMBERS PRESENT:

Mr. Baring.	Sir James W. Hogg.
Sir Charles Wood.	Mr. Hume.
Mr. Baillie.	Mr. Bankes.
Mr. Newdegate.	Mr. Vernon Smith.
Mr. Labouchere.	Mr. Hildyard.
Sir R. H. Inglis.	Mr. Spooner.
Viscount Jocelyn.	Mr. Edward Ellice.
Mr. Cobden.	Sir George Grey.
Mr. Hardinge.	Sir T. H. Maddock.
Mr. Milner Gibson.	Mr. Elliot.
Mr. Mangles.	Mr. Lowe.
Mr. John FitzGerald.	Mr. Disraeli.

THOMAS BARING, Esq. in the Chair.

General the Right Honourable *Hugh* Viscount *Gough*, G.C.B., Examined.

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1651. *Chairman.*] IN what year did your Lordship first serve with the Indian Army?—I was appointed to, and assumed the command of, the Mysore division in September 1837.

1652. That was at Madras?—At Madras.

1653. You held the command of the Madras army for several years?—I commanded the Mysore division; I only commanded the Madras army during the interval of Sir Henry Vane's resigning the chief command at Bengal, and Sir Stamford Whittingham assuming the command at Madras. As senior officer, I was then appointed, Commanding in chief the troops at Madras, which situation I retained till the arrival of Sir Stamford Whittingham, when I resumed the command of the Mysore division, which I retained till I was appointed to the chief command of the expeditionary force in China.

1654. What is your opinion of the discipline and efficiency of the Madras army?—I have the highest opinion both of the discipline and efficiency of the Madras army.

1655. Did you find them satisfied with the service?—Perfectly; I never found any discontent among them; there is sometimes, as there always will be, in an army so composed, a little dissatisfaction if there is any curtailment of their pay or allowance, or any supposed deviation from the system under which they are engaged, but generally speaking they are most contented and most obedient, and I think most loyal.

1656. In what year did you succeed to the command of the army of India?—I arrived at Calcutta on the 8th of August 1843, and was immediately sworn in as Commander-in-chief of the Indian army, shortly after my return from China.

1657. In the course of the various campaigns in which you were engaged with the army of India, you had frequent opportunities of judging of their efficiency and discipline: will you state to the Committee what is your impression of their efficiency in the field?—Having commanded the army of Bengal in three campaigns, in the Gwalior, the Sutlege, and the Punjaub, and having only commanded a portion of the army of Madras, in China, and a very small portion of the Bombay army in the last campaign, the Punjaub campaign, I can speak more decidedly of the Bengal army than of the other two; the

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Madras army I had the highest opinion of, as I stated before, whilst under my command, upon service in China, as also of the small proportion of the Bombay army in the Punjaub. The Bengal army I think very highly of indeed; I recorded my opinion to that effect. I feel happy in stating that I conceive their efficiency and their devotion to the service highly creditable to them, and beneficial to the country.

1658. Were their arms and equipment such as you approved?—No. I think the firelock is much too heavy for the sepoy, and I should say that very considerable improvement might be made in the arms and equipments of the regular cavalry with very great benefit.

1659. That observation applies to the swords and saddles?—The swords and the saddles principally. To give an instance of it during the last campaign: I found that the regular cavalry so much preferred the native sword, that I permitted them, at the battle of Guzerat, to take into the field the native swords, so that each man had two swords. I did not feel myself justified in taking from them the arm given them by the Company, but I allowed them to have the other also.

1660. Was the commissariat so efficient as to relieve you from all anxiety about the supplies?—During the three campaigns in which I served, the army under my command was never one day without its full rations; that is, the soldiers; the paid followers were occasionally put upon half rations: but it was unavoidable; but the soldiers, both European and native, were never one day without their full quota of provisions.

1661. Did you find the artillery efficient, and not inferior to the Royal artillery?—I considered the artillery one of the most perfect arms that any power can possibly have, both as to science and practice.

1662. Are the horses equal to the work in the field?—I think there might be a considerable improvement in the horses; I think the New South Wales horse is a better draught horse than the stud horse.

1663. From what sources are the horses now derived?—Generally from the different studs; almost universally.

1664. You would prefer the horses from New South Wales?—Yes, from the trial we had: one troop of horse artillery were supplied with horses from New South Wales, and they were very far superior; the horses from the studs would be greatly improved if they were geldings, instead of having them as they are now, entire horses; indeed I believe at present there is a very large proportion of the cavalry horses that have undergone that operation.

1665. In the course of your Lordship's experience, did you ever observe that the discipline of the army was at all relaxed?—When I assumed the command of the army, it was immediately after the unfortunate campaign of Affghanistan. I think the *morale* of the army was at that time not quite so good certainly as it was formerly, and at the conclusion of the Punjaub campaign; I consider that the discipline and the *morale* of the army at the latter period was as high as it could possibly be.

1666. With regard to the number of European officers present with their regiments in the field, did you consider the number to be adequate when in the field?—Certainly not.

1667. In what respect would you suggest an increase; would it be with regard to the regular or the irregular troops?—With regard to the regular troops; in the army all the officers are appointed to the regular troops; they are only detached from the regular to the irregular.

1668. Are you of opinion that a smaller number of troops would be as efficient, if commanded by a greater number of European officers, or do you think that the same number of troops would still be required with more European officers?—I have no hesitation in saying that I would prefer going into the field with an army consisting of regiments of 800 men well officered, rather than an army consisting of 1,000 men, with the number of officers now attached.

1669. What number of officers is now attached to the corps of irregular infantry and cavalry?—A commandant, a second in command, an adjutant and a medical officer, to the irregular cavalry; the regular infantry varies very much, from one to sometimes five.

1670. You do not consider that number sufficient?—I consider it sufficient for the irregular, because they are selected officers; men best calculated for the duties they have to perform. I speak of the European officers.

1671. Are

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1671. Are the Committee to understand your objection as to the number of officers to apply to the regular troops?—To the regular cavalry and infantry, and to the artillery particularly, as the scientific branch of the service.

1672. When an officer is taken from the regular troops, and attached to the irregular, is the vacancy not immediately filled up?—No.

1673. Were the rules for maintaining regimental efficiency, by limiting the number of officers to be taken from regiments for the staff, or on detached employments, duly observed whilst you were in command?—I should say almost universally. In some few instances officers of a peculiar cast of character were required by the Governor-general, and there was no opportunity of acquiring them otherwise than by taking from regiments which had already had their quota taken from them; but generally speaking, with regard to the Commander-in-chief, the Government would have prevented him from appointing an officer beyond what was allowed by the regulations; the Government of course, being supreme, had the power of doing that; but, I have no doubt, from what I have experienced of the Government of India, that if the Commander-in-chief at any time found any peculiar cause for recommending an officer beyond the regulation for staff or detachment employment, the Government would accede to it.

1674. With regard to the barracks for the European troops, did you consider them sufficiently large and airy?—I think the new barracks of recent years, the barracks built by Lord Ellenborough, for instance, were peculiarly well adapted for the purpose of the health and comfort of the troops; some of the other barracks are exceedingly confined, and very prejudicial to the health of the troops, particularly those of old construction. I cannot speak as to the barracks in the Punjaub; I rather think they were more temporary than permanent.

1675. Had you ever occasion to make any suggestions for improvements?—Frequently.

1676. Did the Government pay attention to those suggestions?—Every courtesy was paid to the recommendations of the Commander-in-chief; of course in many instances they were not carried out. I had merely to speak of the comfort of the troops; the Government had to look to the expense that those improvements would be to the Government; but in every instance I found every willingness, as far as the Government conceived they could go, to attend to the recommendations of the Commander-in-chief.

1677. Were the rules for pensioning and invaliding the native soldiery considered liberal and satisfactory?—Most liberal and satisfactory. I consider the pension system as our great hold upon India. I have no doubt of the beneficial effect that will be worked by it when it comes to operate upon the Punjaub.

1678. Did you find that the native soldiers were desirous to remain in the service, even in preference to being pensioned?—The pensions are very liberal; I think they are generally quite adequate to the wants of men in their situation of life in India, therefore I think that generally the man was anxious to get his pension.

1679. He retired when he was entitled to a pension?—He retired when he was entitled to a pension; that is, the man is not actually entitled to a pension, but it comes before a committee and he always gets it. There may be a few instances of men who would rather stay a short time longer to get an increased pension, because the amount of the pension depends upon length of service; but, generally speaking, the native is anxious to get his discharge, and retire upon his pension, and live with his family, except in the instance of native officers and non-commissioned officers who have not held their rank for three years, as prescribed by regulations, and are therefore anxious to complete that period.

1680. Do you consider the service popular with the natives?—It is very popular; I am quite convinced of that.

1681. Are recruits readily obtained?—So much so that in most of the regiments there are a body of men, relatives of the soldiers, who are ready to fill up vacancies.

1682. Is it necessary to give any bounty to the native recruits?—No; none.

1683. What period do they serve before they are entitled to a pension?—I think 15 years.

1684. Is it permanent enlistment, or enlistment for a certain number of years?—It is permanent enlistment.

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1685. With regard to the sepoys at Madras, did you find any difficulty in inducing them to embark for foreign service?—None whatever; as commander of the force at Madras I attended the embarkation of two regiments for China, and I never saw men of any nation embark with more spirit or more credit to themselves, although there was a host of their wives (which the Madras army always have) on the beach at the time.

1686. The Committee are aware that in Bengal there is not always the same willingness to go on foreign service; to meet the difficulty would it be desirable that all the sepoys in Bengal should be enlisted for foreign service?—I think it would be of advantage, and I have no doubt that the men would enlist as readily. The man requires only that the rules, under which he enlists, should be well explained and carried out.

1687. Would it affect the description of recruits at all?—I do not think it would; I am not sufficiently conversant with the native character to give a decided opinion; but the impression upon my mind, from the conversation which I had with officers who are better informed than myself upon the subject, is that it would not.

1688. Do you approve of mingling of Sikhs with Hindostanee sepoys in the same regiments?—It was not the case during my command; I can only speak therefore from hearsay. It is since I returned that the Sikhs have been introduced into the regular regiments; I strongly recommended at the first peace after the Sutlege campaign that the Sikhs should be introduced into our army; and I am quite convinced of their efficiency, their gallantry, and their fitness for the service; I understand that there has been no detriment to the service from the introduction of Sikhs amongst the Hindostanees and Mussulmans.

1689. Did you find the corps of Sikhs raised after the first Punjaub war efficient bodies of men?—Peculiarly so.

1690. Should you recommend that the recruiting among the Sikhs should be extended?—Decidedly. You must have a large force of Europeans and a superior force of native troops; I would not compose the army entirely of Sikhs, for they are very much attached to their own country; but I have no doubt whatever of their efficiency and of their fitness for the service. In short, I would recommend the introduction of a very large portion of Sikhs into the army.

1691. With regard to the present extent of the army, should you consider it necessary to keep it up to its present amount in a time of general peace in India?—The army of India has a great many duties to perform, and now particularly when our territory is so very much extended, and is likely to be extended more by new annexation, I should be very sorry to see the army reduced from its present strength. India is a very peculiar country; you do not know the hour when some outbreak may take place; and we all know that the people of India have their heads up like so many leeches looking out for anything that may occur. Therefore, I think that a reduction of the army to any extent would be injudicious.

1692. From your Lordship's lengthened experience, the Committee would be very glad to hear any suggestions which occur to you, for the purpose of improving the constitution of the army, and the removal of any defects?—That is a very extended question. Upon some points I have answered the question already, with regard to the arming of the infantry, the equipment and arming of the cavalry, and the want of officers; those are three important points, but there is one other to which I would beg to draw the attention of the Committee, which has appeared to me very injurious to the efficiency of the army, and exceedingly hard upon the Indian officers: I allude to the present system of furloughs and sick-leaves. I conceive that the granting preference for sick-leaves to New South Wales and the Cape is extremely injurious; and I would strongly recommend that the same advantages, or greater, if possible, should be given to officers of the Indian army, to come home to England, on sick-leave, rather than going to New South Wales, or the Cape; in England their minds are enlarged, and they get into different society from what they naturally meet with in those colonies; I should therefore strongly recommend that the same advantages, at all events, should be given to officers coming on sick-leave to England as now are accorded to those going to New South Wales and the Cape. In the year 1845 my opinion was required by the Government, upon the

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the subject of furloughs; and I then strongly recommended that the periods might be changed. The intercourse with England now is so very expeditious that I think it is a great hardship that an officer should be prevented for 10 years from coming home without a great sacrifice: I therefore strongly recommended that the first period of furlough should be granted to an officer, upon his serving seven years, and that upon his serving 10 years, he should have two years' furlough, supposing that he did not take his furlough for one year after seven years; and after 12 years I should recommend the present system to be continued, namely, a furlough for three years, either fractionally or in the whole. I think also that the system of making staff officers vacate their appointments, on coming on sick-leave to England, whilst you allow them to go on sick-leave to New South Wales and to the Cape, is exceedingly injurious both to the service and to the individuals; I can speak practically of that; I know that many most excellent and efficient officers, most serviceable to the Company, rather than give up good staff appointments, remain for that term, which concludes so many men's lives in India, "one year more," and that many who might have recovered if they had been allowed to come to England at an earlier period, and have returned, and resumed their active duties with advantage to the country and credit to themselves, have been lost to the service. Therefore I would strongly recommend that the officers of the two services, the Queen's and the Company's, should be assimilated in that; namely, that an officer should return after two years' absence, and resume his staff appointment: I have no doubt upon that subject.

1693. Have you any other suggestion to make?—I think not. There are a great many things which have been proposed for consideration by others; but I do not at present recollect any other point of importance.

1694. Mr. *Hume*.] The Military Board in Bengal has extensive powers connected with the barracks and other matters; can your Lordship give any opinion as to how far the Board, as now constituted, has been efficient, and can you suggest any improvements which might tend to facilitate the business of the service, and, at the same time, to secure a check and control over the expenditure for public buildings?—I myself, as Commander-in-chief, had no communication whatever with the Military Board. All the Commander-in-chief's communications are through the adjutant-general to the military secretary of the government, or direct from the Commander-in-chief to the Governor-general; therefore, I had very little opportunity, except for the very short time that I was in Calcutta, of judging of the Military Board. I own, that my impression is not favourable to the Military Board. The fact is, that the Military Board are gentlemen having large duties of their own to perform; one is the commanding officer of the artillery, who has a great many duties to perform; another is the commanding officer of the engineers, who has all his own regimental duties to perform; the third is the commissary-general, who has very vast duties to perform; and there is one paid officer. I really think the working of the Military Board is not satisfactory.

1695. Do you mean that you would recommend more individual responsibility on the part of persons whose attention was not distracted by other important duties?—No. I think the heads of the different departments should communicate more with the Government than merely as a body. The fact is, that now things connected with the artillery are principally left to the officer commanding the artillery, one of the Board, and those connected with the engineers and the barrack department are left very much to the commanding officer of the engineers; and as to the commissariat, it is very much the same, so that it amounts to the same thing, that they are all acting in their several branches, and they are subordinate to none but the Governor-general. As a Board, they may all disagree; the commandant of artillery may disagree with the commissary-general with regard to the provisions of the army; and the commissary-general may disagree with the commanding officer of the engineers as to the building of barracks.

1696. Then at those times, when the Governor-general is absent from the seat of the Military Board, if deficiencies should arise in the Board how are they managed?—I cannot answer that question; I think the Governor-general generally has with him an officer attached to the Board. Lord Hardinge had such an officer with him, and I think that everything was referred to the Governor-general, and no difficulties occurred.

1697. Mr.

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1697. Mr. *F. Smith*.] You said that there is great facility in obtaining recruits for the Indian army; can you state how a soldier in the Indian army procures his discharge, if he wishes it?—By an application through his commanding officer, which is submitted to the adjutant-general of the army, for the information of the Commander-in-chief.

1698. Is any payment made upon the discharge?—No.

1699. He cannot buy it?—No, I think not.

1700. In point of fact, from what you have stated of the desire of the people to enlist in the army, there is no difficulty in procuring a discharge?—I think not. After having served three years he is entitled to his discharge, if the country is at peace.

1701. Sir *T. H. Maddock*.] Considering the duties which the officers of the Queen's army have to perform as divisional commanders, and brigade commanders, either in cantonments or in the field, and when employed on courts martial, is it, in your opinion, necessary or desirable that the officers in the Queen's army should possess a knowledge of the vernacular languages?—I do not see that it is a matter of very great consequence, for you always have an interpreter. For instance, when you inspect a regiment you are obliged to inquire if there are any complaints, that is done through an interpreter. The officer who asks the question, is perhaps not competent to ask it in the native language, nor can he probably know the answer, except through an interpreter.

1702. But when an officer in the field is commanding, besides his own European troops, native troops, is it not very essential that he should be able to give his orders in the vernacular language?—You give your orders, and they are repeated by the European officers; you do not give orders actually to the soldiers; if you command an army there is very seldom an instance in which you give a direct order to a soldier; you generally have an interpreter with you, one of your staff, who of necessity must know the language.

1703. In courts martial would it not be desirable that the Queen's officers should understand the language of the people who are the witnesses, and who are on their trial?—Inasmuch as you know better what a man actually means when you understand his language than when you hear it interpreted by another; it is very natural that it should be so.

1704. Is there any encouragement given by the Government of India to the officers of the Queen's army to qualify themselves by a knowledge of the native language?—No; I do not think there is any advantage to an officer of the Queen's service from knowing the language, other than it qualifies him to hold the appointment of interpreter to his own or to one of the other Queen's regiments.

1705. Do you see any objection to an officer of the Queen's army, who has qualified himself by a perfect knowledge of the native languages, being allowed to hold any political appointment, or any one of those staff employments which are now exclusively given to the Company's officers?—I should see no objection to many of the appointments being given to the Queen's officers who make themselves competent for the performance of the duties.

1706. In your Lordship's experience have you found any officers of the Queen's army who were conversant with the native languages?—Yes, several.

1707. Do you not suppose that if the encouragement which I have alluded to were given to officers of the Queen's army, to make themselves proficient in the native languages, they would do so?—I have no doubt of it.

1708. What is your Lordship's opinion as to the proper place of residence of the Commander-in-chief in India during the occurrence of any hostilities upon the eastern frontier?—There cannot be a doubt that the Commander-in-chief should be as near the scene of operations as possible, and as near the Governor-general as practicable, so as to be in communication with him.

1709. If the Commander-in chief is remaining at Simlah while operations are going on in the Burmese territories, they must, I conclude, be carried on without any control or any advice on the part of the Commander-in-chief?—I have not known any instance of the kind; it is only a supposition upon which any one can form an opinion; I have said that the Commander-in-chief and the Governor-general being together when any active operations were performing would be an object of very great moment.

1710. Will your Lordship have the goodness to state to the Committee what, in

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in your opinion, are the effects that have been produced by the establishment of stations in the Hills for the European troops?—I have no doubt they are very beneficial for the health of the troops.

1711. Are you of opinion that the Hill-stations might be considerably extended?—I think they might; but from the number of your troops in India, you must have a certain proportion at the great stations; you cannot withdraw them all from the low country; but I have no hesitation in saying that the Hill-stations do greatly contribute to the health of the troops, and prevent their being invalided so soon as they otherwise would, and thereby becoming very expensive to the State.

1712. If railways were established from the foot of the hills, by way of Meerut and Cawnpore, would you then think it necessary to have European troops at those stations?—Certainly not so necessary; but from the great extent of India you must have troops, I think, at particular stations. I should be sorry to see such a great station as Meerut without a large portion of a European regiment.

1713. Your Lordship has seen so much of the Indian army, both in time of war and in time of peace, that perhaps you would favour the Committee with your opinion upon the comparative merits of the regular and irregular native cavalry of the Bengal army?—My opinion is certainly very favourable to the irregular cavalry. I have seen instances of very great gallantry and devotion performed by the irregular cavalry, but I think very much depends upon the officer who commands the regiment. Both in the cavalry and the infantry almost everything depends upon the European officer; a good officer who intermixes with his men, and who shows an interest in their wants and comfort, the men will follow and do anything for him; but carelessness, or interference with their customs or religious feelings, has a very injurious effect. They are very tenacious of interference of that sort; and a native regiment would certainly not be so effective under such an officer, as it would be under an officer of the character I before alluded to.

1714. In proportion to their numbers are not the regular cavalry much more expensive than the irregular?—Certainly; I should think upwards of twice the expense, but I would strongly urge an increase of pay of the irregular cavalry in Bengal. This is a financial subject, but I am speaking in a military point of view. In the Bengal irregular cavalry a man gets but 20 rupees a month; he has to clothe, equip and feed himself, and to find his horse: in short, he is a cavalry soldier for 20 rupees a month. The Nizam's irregular cavalry, which is the finest cavalry perhaps in the world, get 35 rupees a month. I think the irregular cavalry, at Bombay, get 30 to 35 rupees a month. I think there is no place scarcely in which they could act so well as in Bengal. I should be very glad to see the Bengal irregular cavalry increased to 25 rupees a month; and I am convinced that they would be as fine and efficient a body of men as you could wish to have in case even of anything occurring nearer home.

1715. That difference in the rate of pay arises, no doubt, from its being cheaper to feed, both man and horse, in the Upper Provinces of India than it is in the Bombay territories and in the Nizam's country?—I cannot answer that question particularly, but I know that rate of pay is not sufficient in many parts of Bengal, and particularly in going upon service. Those soldiers are very hard pressed; they get into debt, they get involved, and they borrow money, which is a bad thing always in any country, but particularly in India.

1716. Can your Lordship inform the Committee how both the regular cavalry and the irregular cavalry are employed in time of peace?—The irregular cavalry has a multiplicity of duties connected with the Government, in various ways connected with the civil service of the country. The regular cavalry have not those duties, they are in their cantonments.

1717. They perform very little service in time of peace?—Very little; there are treasury escorts, for instance; the native infantry are exceedingly hard-worked. I would say that upon the average a soldier of the Indian army is not above two nights out of three in bed; so it was in my time. I believe that by judicious arrangements these duties have been somewhat lightened since; the Governors-general have always been most anxious to relieve the army from that weight of duty that was thrown upon them by the collectors and civil superintendents; for instance, treasure escorts; it was quite wonderful the numbers employed

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employed throughout the year in the mere transferring the treasure from one post to another; that has been very much done away, both by Lord Hardinge and Lord Dalhousie. I understand that latterly it has been very considerably decreased indeed by the judicious arrangement of sending the treasure at the periods when the regiments moved from station to station, making it more a periodical thing than an accidental one.

1718. Sir *J. Hogg.*] Are allowances made to the officers in India to encourage the study of the native languages on their part?—Yes.

1719. Are those allowances given equally to officers of the Company's troops and officers of the Queen's troops?—I think not; but I am not certain.

1720. Mr. *Hardinge.*] It has been stated that the horse artillery in India is comparatively a useless arm; you have already stated your opinion of its efficiency; will you state how efficient it was at the battle of Guzerat?—I found them efficient upon every occasion; there was a greater body of artillery brought into action at Guzerat, because the country permitted it, but both at Guzerat, and in every action in which I have been engaged, the artillery have always done their duty most efficiently, and most nobly, particularly at Guzerat, where there were opportunities of bringing artillery to a very great amount into action; I think I had 84 guns in the field in action with the enemy.

1721. Did not the horse artillery enable Sir Walter Gilbert to overtake the enemy, and to prevent the bridge being broken down at Attock?—Yes; Sir Walter Gilbert got up himself before the horse artillery or anything else, except his staff and a very few men: but the happy arrival of, I believe, two guns, or some body of guns, enabled him to prevent the bridge from being burned.

1722. Your Lordship has spoken of the discipline of the native army in India; can you speak to its efficiency under fire?—I had every reason to be perfectly satisfied with the army of India. I have before mentioned, that some regiments are infinitely better than others; that is mainly owing to the commanding officer, and the way in which they are handled, and very much depends also upon the Queen's regiments of the line with which they are associated.

1723. Did you not find that they vied with the Europeans in distinguished conduct at the battle of Sobraon?—Several of the regiments acted as well as men could act, not only at Sobraon, but in every action in which I was engaged.

1724. Especially the Goorka regiments?—They are very fine indeed; they are very gallant.

1725. Would you recommend that the regiments of the Bengal army should be recruited for general service?—If the system were adopted of recruiting every man for general service, of course I see no objection to it. It is a very bad thing to be obliged to ask any man to go abroad as a matter of favour: but it has always been found, that when you call for volunteer corps, they are always ready to come forward. In both the China wars there were regiments of volunteers called for, and they immediately came forward to the amount that the Government wished for.

1726. Your Lordship has spoken of the stud; what has been the result of the introduction of the Gulf Arab, and New South Wales horses?—Very extraordinary advantage; and I should be very glad to see it greatly increased.

1727. The 9th Lancers were mounted upon Gulf Arabs, were they not?—Yes, I think so: but the 9th Lancers were a body of extraordinarily large men; when I took the command of the army I inspected them going up country, and they certainly seemed to be too heavy for their horses.

1728. Has your Lordship seen the barracks of Mohameer?—No, they were not even commenced before I left India.

1729. Have not the barracks of Dugshei answered perfectly?—I understand so; they were not finished when I left the country.

1730. Viscount *Jocelyn.*] Has your Lordship had any Goorkas under your command?—Yes.

1731. What do you think of them?—I considered them the most gallant body of little fighters that I ever met with.

1732. It has been stated by a general officer in another place that he should recommend an increase of the Goorka force; do you agree in that opinion?—I was always very anxious for it, and I have no doubt that you would have a very greatly improved army if you had a greater number of Goorkas, at the rate of pay that we give our sepoys. The Goorkas in our service, when I held the

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the command, got a smaller rate of pay; many of the Goorka soldiers are stationed on the hills, and the consequence is that they have not the expense of moving about as other regiments have.

1733. Sir *J. Hogg.*] Are you aware that the Goorkas and the other sepoys now get the same rate of pay?—No, I am not aware of it; I earnestly advocated it during the whole of the time that I was in India.

1734. Viscount *Jocelyn.*] Do not the Goorkas find their own arms?—No, they do not.

1735. What, in your opinion, is the effect of the withdrawal of a number of officers from their regiments upon the discipline of those regiments?—I stated before that it is excessively prejudicial, but it cannot be avoided; you must do it; and therefore I strongly advocate an increase of the officers of the native army.

1736. Is there any limit to the number of officers that can be so withdrawn? —Yes.

1737. Is that number exceeded?—Yes; I before stated in some particular instances.

1738. Mr. *Elliot.*] Am I rightly informed in saying that at Guzerat an officer commanding a horse artillery battery found himself opposed to a heavy battery of the enemy, at a distance from which he was likely to suffer, and that he immediately put his horses to his guns and galloped them up to within his guns' range of the battery, and drove the enemy from their guns?—I cannot exactly speak as to individual conduct, but I know that at Sobraon an officer of the horse artillery brought his guns, which were six-pounders, within 500 paces of a very heavy battery of guns, 18-pounders; and I now recollect having heard that there was a similar case at Guzerat. I have no hesitation in saying that the officers of the horse artillery in Bengal are ready and willing to bring their guns always to within effective range of their enemy.

1739. Could such a service have been performed with foot artillery, or with guns drawn by bullocks?—Certainly not. But I beg to say that there is only one field battery now with bullocks. Of course with bullocks you could not get them up to the enemy's battery, nor could the foot artillery have done it with their nine-pounders and their limited number of horses; they would have suffered very materially before they came within this range.

1740. Could such a service have been performed if the horse artillery had not been there to do it?—No: however, I should be very glad to see the light field batteries increased as to the number of horses; but they are a most effective arm. I would strongly recommend nine-pounders in preference to six pounders, in a much greater proportion than at present. I have always advocated that in the horse artillery.

1741. Could a well-horsed foot battery have performed a service such as that which has been described as having been performed at Guzerat? —The number of horses to a foot battery is not equal to that of the horse artillery. The one has 130 horses, the other has 169, whilst the former has a greater weight of metal to draw. I have no doubt that in instances, when the ground is suitable, a light-horse field battery would have come within 500 paces of the enemy's entrenchments.

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1742. *Chairman.*] HOW long have you been in India?—Upwards of 32 years.

1743. Will you give the Committee a short outline of your services in India? —I arrived in India in January 1821. I was adjutant of my regiment six years. I have served as a brigade major, and acted as assistant adjutant-general of division. I commanded a corps composed of the light companies of several regiments, and I raised from the foundation and commanded a battalion of light infantry. I served at Gwalior as deputy adjutant-general, and in the Sutlej and Punjaub campaigns and in the expedition to Kahat as adjutant-general of the army. I was adjutant-general of the army the last five years I was in India.

1744. From the length of your service you have had many opportunities of judging of the general services, of the character and conduct of the Indian army;

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do you concur in the opinion which has been expressed to the Committee as to its general efficiency?—I think that everything depends, especially with native regiments, upon the European commanding officer. If a regiment is well commanded, it is efficient: if it is badly commanded, it is inefficient. I look upon the European officers as being the very life-blood of a native regiment.

1745. Do you consider that there are a sufficient number of European officers attached to the regiments when on service?—I do not; during the Punjaub campaign, I cannot state positively, but my impression is that we had not one European officer to each company.

1746. Would not that be contrary to the regulations as to the number of officers that must remain with the regiments?—If they are not there you cannot get them: so many are withdrawn from one cause and another.

1747. Will you state the regulations as to the number of European officers that must be attached to a regiment?—The whole establishment is one colonel, one lieutenant-colonel, one major, six captains, ten lieutenants, and five ensigns.

1748. Of those, how many may be withdrawn?—The number that may be withdrawn are three captains and three subalterns; but then some are absent on sick leave, and some from other causes, so that the effect has been, as I have stated, that there was not one European officer for each company.

1749. According to the regulations, how many European officers are there to a company?—There are six captains, ten lieutenants, and five ensigns for ten companies; deducting three captains and three subalterns on staff employ, and the adjutant and the interpreter, and without taking into account absentees on furlough, sick, and from other causes, 13 officers would remain for duty with 10 companies.

1750. Are you aware of any instance of failure before the enemy on account of the small number of European officers with the regiment?—I think that everything depends upon the commanding officer; if a regiment is well commanded, it will never fail.

1751. Can you state any case in which a regiment was unfit for service on account of the small number of European officers that were with it?—Not absolutely unfit for service, but certainly not so efficient as if properly officered.

1752. Without mentioning names, is there any case within your recollection that would illustrate your opinion?—I do not recollect any case of positive failure of a native regiment; I have seen natives behave as well as Europeans, and I have seen Europeans behave as ill as natives.

1753. Sir *G. Grey.*] You have observed a difference in the character of different regiments; do you attribute the superiority of one regiment to another exclusively to the character of the commanding officer, or to the fact of its having had a full complement of European officers?—I attribute it to the character of the commanding officer especially, and also to its having had a full complement of European officers; I ascribe it to both causes combined, but more particularly to the character of the commanding officer.

1754. *Chairman.*] Can you state the average number of European officers which were attached to the native regiments in the Punjaub war?—I have already said that there was not one European officer to each company.

1755. Mr. *Hardinge.*] Was that in the Sutlej or the Punjaub campaign?—In both campaigns. My impression is, that there was not upon the average one European officer to a company present in action.

1756. Is it, or is it not, usual upon those occasions to call officers who are in political employments to rejoin their regiments?—It is.

1757. Were the officers upon that occasion called upon to rejoin their regiments?—I believe, in every instance where the Government could spare their services for regimental duty, that they were called for; but some did not arrive until the campaigns were nearly over, and many joined in an inefficient state, from having to travel such long distances, without equipment or baggage.

1758. But the order was issued upon that occasion?—The order was issued, and obeyed most promptly.

1759. *Chairman.*] Is the discipline of the native army good, or do you consider it deteriorated?—I think it was deteriorated at one time. On the abolition of corporal punishment I think the discipline of the native army deteriorated, and it was recovered on corporal punishment being restored. It is very seldom necessary to have recourse to corporal punishment in a native regiment, but it is quite necessary that the men should know that it can be resorted to if required.

1760. Can

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1760. Can you state when corporal punishment was abolished in the native army, and when it was restored?—It was abolished under the government of Lord William Bentinck, I think in 1827 or 1828, and it was restored under the government of Lord Hardinge, with excellent effect in my opinion.

1761. Do you consider the officers commanding the native regiments to be generally efficient for their duties?—Some are, and some are not, as in other services.

1762. Does the system of seniority affect the discipline of the regiment?—Certainly it does, inasmuch as, with very few exceptions, an officer is far advanced in years before he attains the rank which would entitle him to the command of a regiment.

1763. Is the rule of seniority always strictly followed out?—Always; it is the constitution of the army; it cannot be deviated from.

1764. If in consequence of age any commanding officer was totally unequal to the service, has not the Commander-in-Chief the power of making a change, or of withdrawing him from the command?—I have never seen an officer withdrawn from the command of a regiment on account of age and infirmity. I know one instance of a commanding officer having been reported by the inspecting officer as unfit to exercise command, and he was recommended to apply for transfer to the invalid establishment. He declined, and the case dropped. I have known two instances of lieutenant-colonels having been suspended from the performance of duty until the pleasure of the Court of Directors should be known, but that was on account of misconduct; the Court of Directors confirmed the recommendation of the Commander-in-Chief and of the Government, and the officers were finally removed from the service. The Commander-in-Chief is much guided by the confidential reports on regiments which are made annually by officers commanding divisions.

1765. At what age does an officer generally obtain the command of a regiment?—He is considered a very fortunate man indeed who gets his lieutenant-colonelcy in 30 years.

1766. If from seniority an officer has a claim to the command of a regiment, whether fit or unfit, do I rightly understand that the Commander-in-Chief must promote him to it?—He must be promoted; but it rests with the Commander-in-Chief to withhold a command of that sort from him or not; but I have never known that power exercised.

1767. But the power exists?—The power exists.

1768. You have spoken strongly as to the necessity of an increase of officers; are the objections to such an increase financial only?—I imagine that the objections are financial only; it would involve a very great additional expense.

1769. Has there not been an addition to the regiments?—Yes; a captain has been added.

1770. Do you know how many captains were added to the service?—One per regiment throughout the armies of the three Presidencies.

1771. Do you know the expense which that addition has caused?—It would be about 500 *l.* a year for each captain. I conclude that the expense would be about from 80,000 *l.* to 90,000 *l.* a year.

1772. Are the officers from all the three Presidencies as equally as possible applied to staff and detached employments?—There are officers of the Bombay and Madras Presidencies serving in the irregular forces in Bengal.

1773. So that there are not in any one of the Presidencies any number of officers that would be applicable now to relieve the others?—I do not know that the Madras or Bombay army can spare officers. If they can, it would relieve the Bengal army to employ them. Many of them are employed with the irregular forces in Bengal.

1774. Is there any difference in the discipline of the armies of the different Presidencies; do you consider the Bengal army inferior to that of Bombay?—I do not; I consider the troops of the Bengal army to be superior to those of the Bombay or Madras army, in physical strength. I have seen but a small portion of the Bombay army, only the division that was employed at Goojrat, and I am even less aquainted with the Madras army; but certainly, in appearance and in physical strength, the Bengal sepoy is much superior to the sepoy of either of the other Presidencies.

1775. Was there not a report that the Bengal army refused to serve in the trenches at the siege of Moultan?—Such a report was circulated, but I can prove

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prove that it was totally unfounded. I can lay before the Committee a note from the officer commanding the Bengal sappers and miners at Moultan, stating most distinctly that the report was without foundation.

1776. Will you be kind enough to read it to the Committee?—"Simlah, 23d May 1839.—My dear Colonel Grant,—With reference to the notes you have shown me regarding General Dundas's report to the Bombay Government of the refusal or unwillingness of the Bengal sepoys to work in the trenches at Moultan, and of their abusing the Bombay sepoys for so doing, I will say, as one of the senior engineer officers at the siege, and the officer commanding the Bengal sappers and miners, that I neither saw or heard anything of the kind; and nothing of the kind could well have taken place without its coming to my knowledge, for I was in the trenches 30 hours out of every 48, and receiving reports every five or six hours when not in the trenches. The Bengal sepoys never hesitated about taking up their tools, or whatever they were required to carry, and proceeding to work; and it is my impression that they did comparatively more work than the Bombay sepoys, simply owing, however, to their superior physical strength, for no men could be more willing than the latter. As for their abusing the Bombay sepoys, I utterly discredit it; all came to work in their turn, and they knew this so well, that the idea seems an absurdity to me. On the contrary, I noticed during the siege that the habit of jeering my men, unhappily too common on the part of the sepoys of the line in cantonments, was entirely dropped, and a marked sympathy with and interest in their exertions evinced on the part of the Bengal sepoys. The engineers of course preferred European working parties at night, for many obvious reasons, and a request was made (by Major Scott, of the Bombay engineers) that the details might be so arranged that the Europeans should come at night, and the natives by day, so far as practicable: and I cannot but think it is some confused misapprehension of this fact which has led General Dundas wrong in this matter. There were of course marked differences in the sepoy working parties, both Bengal and Bombay, almost everything depending upon the regimental officers on duty; but no kind of hesitation or refusal to work, or to carry materials from the engineer depôt to the trenches, did I ever see or hear of." That is from Major Siddons, of the Bengal engineers, who commanded the sappers and miners at the siege of Moultan.

1777. Do you agree in the opinion which has been expressed to this Committee, that the recruiting is very easy, and that the service is very popular with the native soldiers?—It is very popular, and the recruiting is very easy. I never experienced the slightest difficulty in recruiting, and I never heard of it existing from other commanding officers.

1778. Is the quality of the recruits good?—I think they are just as good as they ever were; I have heard some of the very old officers say that the men were inferior to what they had been in their time; but from my own observation, I should say that that impression is unfounded.

1779. Is there any system of balancing castes in the native regiments?—Yes, there is.

1780. Do you give a preference to any particular caste?—I think the Rajpoots are the best Hindoo soldiers, and the Pathans the best among the Mahomedans.

1781. Are those high castes or low castes?—The Rajpoot is the soldier tribe of India, he comes third; the four great tribes are the Brahmin, the Chuttree, the Rajpoot, and the Soodr; I consider the Rajpoots the best soldiers. Of Mahomedans there are four tribes, the Syud, the Sheik, the Mogul, and the Pathan; the Pathan is the soldier tribe amongst the Mahomedans.

1782. You would give the preference to those two tribes?—Yes, the Pathan and the Rajpoot.

1783. You have heard the evidence which Lord Gough has given to the Committee with respect to the arms and equipments of the native troops; do you concur in the opinions which he expressed, or would you wish to add any further observations?—I think that now the arms and equipments are most efficient, since the introduction of the percussion arms; the old flint musket was in many instances bad and unserviceable; but now, since the introduction of the percussion musket, I think the army is well armed.

1784. Is the weight of the musket too great for the sepoy?—It might be advantageously reduced, but I think the bore ought not to be touched; I would retain

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retain the bore as at present; the weight might be reduced by taking off a number of the brasses, which mostly are mere ornament, and by lightening the stock without weakening it.

1785. What would the weight of the musket be then?—Probably nine or ten pounds; I think that would not be too heavy.

1786. Not for the Madras sepoy, who we understand is the smallest?—The Madras sepoy is the smallest; I think that any soldier can use a musket weighing nine or ten pounds.

1787. Do you consider that the Bengal system of regimental promotion amongst the natives answers well?—I do. I know that it differs essentially from the system pursued at Bombay and Madras; but I think that experience has proved that each system is best suited to its own Presidency. I do not know how the Bengal system might answer at Bombay or Madras; but I am satisfied that the Madras and Bombay system would not suit Bengal so well as the existing system. The Madras and Bombay native commissioned and non-commissioned officers are much smarter looking than they are in Bengal; but I think that in endurance, and in physical strength, the Bengal native soldier is more than a match for his brother of the Bombay army. In the rapid advance on Peshawur the Bombay division was stated to be in an exhausted state, and unable to proceed further without rest; while a Bengal brigade, whose exertions had been not less great, was able to continue its march. I have here Brigadier-general Dundas's report of that circumstance, if the Committee would like to hear it. I mention that as a proof that the system of promotion by seniority that is pursued in the Bengal army does not deteriorate from the efficiency of regiments.

1788. Do you concur in the opinion that the system of invaliding and pensioning the native soldiers contributes much to the popularity of the service?—Most decidedly.

1789. Are the rules strictly adhered to upon that subject?—I think they are. I know that in some instances gross frauds have been practised upon the Government by pensioners and their heirs; but the pension paymasters have successfully exerted themselves to detect such frauds, and I believe they have been in a great measure put a stop to.

1790. Do you consider that the officers in command of regiments have sufficient discretionary power?—I do. I think that if we could always insure having none but sensible and judicious officers at the head of regiments, their power might be advantageously increased; but I never found that my own powers were not sufficient to enable me to maintain discipline in the regiment which I commanded. I think the power is sufficient if judiciously exercised.

1791. Has the power of the commanding officers of regiments been diminished of late years?—I do not think it has. It is under great restriction, certainly; but I think their powers are quite sufficient, if they know how to exercise them.

1792. If you can favour the Committee with any suggestions or any remarks with a view to the improvement of the service which would be useful, they would be happy to hear them; are there any prominent defects in the service which you can point out?—I think that the efficiency of the service would be very much improved by those furlough advantages being granted which Lord Gough has recommended.

1793. You concur with Lord Gough upon that subject?—I do, most entirely.

1794. Mr. *Hardinge.*] Do you concur in Lord Gough's opinion that the army ought not to be reduced?—Shortly before I resigned the appointment of adjutant-general, I had occasion to lay before Sir Charles Napier a return of the duties performed by the Bengal army. At that time there was one-third of the army constantly on duty. If those duties exist still to the same extent as they did at that time, then I think the army cannot be reduced. But I believe, that since the establishment of the very efficient police which has been formed in the Punjaub, under a most able officer, Major Neville Chamberlain, the duties have been very greatly decreased; and now, possibly, the army might be reduced to the old establishment of eight companies and 800 men per regiment.

1795. Are you aware that the military force of the native states is upwards of 300,000 men?—No, I am not. Returns of those forces were not sent to the adjutant-general's office.

1796. Would you recommend that there should be more or fewer Brahmins recruited

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recruited in the native regiments?—The proportion of Brahmins in the native regiments is very small. I do not think they are such good soldiers as the Rajpoots: but there are instances of Brahmins distinguishing themselves as much as any class; they are intriguing fellows, and therefore more difficult to manage, but good soldiers nevertheless.

1797. With regard to the deficiency of officers in the Bengal army, is that to be attributed to the fact that the Bengal army has been more engaged in warfare than either of the other two armies, and that it has consequently been expedient and necessary to recognise the merits of the officers who have been engaged in that warfare by giving them staff and political employments?—It may be so; and certainly every Government, and every Commander-in-Chief, has been anxious to restrict the number of absentees as much as practicable.

1798. Can you inform the Committee whether the offences for which formerly hard labour in irons was imposed, but which are now punished by corporal punishment, have increased or diminished?—I think they have decreased since the restoration of corporal punishment.

1799. Sir *G. Grey.*] You have spoken of the comparative efficiency of officers in command of regiments; do you attribute the incompetency and inefficiency of some officers to the length of time during which they have been absent from their regiments, holding staff or political appointments, before they obtained a rank which entitled them to command a regiment?—I think that if an officer ever has had it in him, he never loses capacity for command merely from absence from regimental duty, however prolonged.

1800. How long have you known officers absent from their regiment, and then returning to the regiment with the rank of lieutenant-colonel, to take the command of it?—I have known officers leave their regiments as subalterns, and never return again till they were lieutenant-colonels.

1801. Do you think that that absence has interfered with their efficiency as commanding officers of the regiments?—I think that if a subaltern thoroughly knows his duty, and takes an interest in it, even though he may be long absent, he will be capable of commanding the regiment when he returns, if age and infirmity have not impaired his energies.

1802. Mr. *Mangles.*] How long was General Gilbert absent from his regiment? — General Gilbert was with his regiment as a subaltern; I do not believe he ever joined his regiment with superior rank; he held a command in which the duties were of a mixed nature, political and military. Then he came home, and returned to India after being 20 years and upwards in Europe; and he is now, I will venture to say, as efficient as any officer in any service in the world.

1803. Sir *G. Grey.*] He returned with the rank of major-general?—He did.

1804. Mr. *Mangles.*] Do you concur in the opinion which has been expressed, that there might be usefully an alteration made in the equipment and dress and arms of the regular cavalry?—I do. In 1841 I was employed under the late Major-general Sir James Lumley in collecting information regarding the organization, equipments, and dress of the regular cavalry. A mass of valuable information was collected, and a very full report was drawn up and submitted to Government by the Commander-in-Chief, but the suggestions which were made have not been carried into effect, except as regards the saddles, of which a better description is gradually being introduced.

1805. Sir *R. H. Inglis.*] When you spoke of a possible reduction of the army, do you wish the Committee to understand that you had reference to the existing condition of India, or to any possible augmentation of the dominions?—I think that if the duties have been reduced, as I understand they have been, the army might be reduced to 800 men per regiment, and those 800 men might be formed into eight instead of ten companies. I would suggest, that instead of employing the regular troops on the north-west frontier, local regiments should be raised, composed of Goorkahs and men from that part of the country. Five regiments, of the strength of 800 men each, would be numerically equal to four regiments of the line of the present establishment; and being composed of hillmen, I think that, in a mountainous country like the north-west frontier, such corps would be more efficient than regiments of the line, consisting exclusively of men from the plains; and there would be a saving of expense, as these corps would not, I conclude, be allowed the trans-Indus batta.

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1806. The question last addressed to you had reference rather to the annexation of dominions; could that probably be effected coincidently with any reduction of the army?—My answer had reference to the existing condition of India; but any fresh annexation might be provided for, as regards the regular native infantry and cavalry, in the same way. The great difficulty would be how to procure competent European officers, without still further injury to the efficiency of regiments of the line.

1807. Mr. *V. Smith.*] In speaking, in an earlier part of your examination, of promotion by seniority, you mentioned a case in which General Napier intimated to an officer that he had better withdraw from the command, and that he refused to do so; can you state to the Committee whether any evil occurred from his so continuing?—None that I am aware of; he continued in the command of the regiment for a very short time afterwards, and has now got his off-reckonings, and come home.

1808. Can you suggest any remedy for the evils arising from promotion by seniority?—With the present constitution of the army I do not think it is possible to correct it.

1809. Do you think that the constitution of the army could be so altered as to correct it?—No.

1810. Mr. *Hardinge.*] Have there not been instances in which officers have been passed over for brigade commands, and on account of age and infirmity?—Yes; I have known several instances in which they have been passed over.

1811. Viscount *Jocelyn.*] Is there not, in some of the regiments, a regular system of purchasing out senior officers?—There is.

1812. What has been the effect of the system?—I think it has been very good.

1813. When was it introduced?—It was first recognised by the Government about 14 or 15 years ago.

1814. Will you explain how they arrange it among themselves; is it done in the same way as in the Queen's service?—I think not; different regiments have different ways of doing it, but generally a scale is drawn up by some officer who is thought competent to do it, or by an actuary.

1815. What do you think has been the effect of that system upon the service?—Younger men have been promoted in consequence; I know many instances; I got my own promotion in that way; I paid 2,200*l.* for the step, otherwise I should have attained my regimental majority only 18 months ago, instead of which I have been a regimental lieutenant-colonel for that period.

1816. You do not think any evil has come of the system?—I think not; on the contrary, I think good has arisen from it.

1817. In speaking of the efficiency of the two branches of the service, which do you consider the most efficient, the irregular cavalry or the regular cavalry?—I think the irregular cavalry the most efficient; the officers are all selected men.

1818. How are they selected?—By the Commander-in-Chief, who selects in every instance the best man that can be found for the command of an irregular regiment; the European officers are selected men.

1819. What is the general average age of the officers commanding the irregular corps?—From 30 to 40, perhaps; very frequently younger. There are subalterns commanding irregular corps.

1820. Mr. *V. Smith.*] When you say that the Commander-in-Chief always selects the best men that can be obtained for those situations, is that the general opinion of the service, or has there been any dissatisfaction with the selections that have been made?—No doubt there are grumblers, who think they have been passed over, and that inferior men to themselves have been selected; but I am satisfied that the Commanders-in-Chief and Governors-General have wished to distribute their patronage with reference to the efficiency and benefit of the service, and not from private considerations.

1821. Viscount *Jocelyn.*] May not the taking the best men for those irregular corps have tended to lower the character of the officers of the regular corps?—Yes; the *élite* have been taken for the irregular corps, and other staff appointments.

1822. Mr. *Labouchere.*] What is the average age of the commanders of irregular corps?—The average age of lieutenant-colonels commanding regular corps,

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corps, to which I understand the question to refer, cannot, I think, be under from 50 to 60 years.

1823. Sir *T. H. Maddock.*] How long is it since the Commander-in-Chief was entrusted with the selection of officers for the irregular corps?—The Commander-in-Chief always recommended to the Governor-general to appoint, but in Lord Hardinge's time the whole patronage of the irregular corps was given over to the Commander-in-Chief.

1824. You have mentioned the name of a most distinguished officer, Sir Walter Gilbert, and you stated that he was probably 20 years in England before he became major-general and returned to India, and that he subsequently performed most distinguished services. Do you think it desirable that officers who have continued 15 or 20 years in England should return to such commands and be put upon the general staff of the army?—I think that is an instance in which it has answered extremely well.

1825. But as a general practice do you think it desirable?—No, I do not.

1826. Can you suggest any mode of providing for that class of officers?—All those who have served their tour upon the divisional staff might be provided for by re-establishing the retired list; it would give present and prospective promotion, to the great benefit of the service certainly, but the expense would be great. Lord Hardinge directed Colonel Stuart, the secretary to Government in the military department, to ascertain what the expense would be of re-establishing the retired list, and he computed that it would cost the Government 40,000 *l.* a year; but certainly, if it were re-established, I should think it would tend greatly to the efficiency of the army.

1827. It is only a question of expense?—Yes.

1828. If such a measure were adopted, do you think that the effect of it would be, that officers commanding divisions and officers commanding brigades would be 10 years younger than they now are upon the average?—I think it might be so.

1829. To the great advantage of the service?—Certainly, inasmuch as you would have younger and more efficient men. Few men are as efficient at 60 or 70 as they are at 40 or 50. I am myself, I think, the youngest man in the Bengal army of the rank of colonel; but even in my own instance I dare not expect that my energies will not be materially impaired by the time I succeed to the command of a division, which I have no hope of attaining in less than 15 years to come.

1830. Mr. *Hume.*] You have stated that the conduct of the native corps depends much upon the character of the commanding officer: do you not consider it a great advantage for the Commander-in-Chief and the Government to be able to avail themselves of the services of any officer they may select for any corps, on account of his peculiar qualifications?—Yes.

1831. Has any mode occurred to you by which the regular corps, which have hitherto on service been short of officers, might have their number of officers kept up, and at the same time the Government might still have the advantage of selecting officers for the irregular corps?—A large increase to the establishment of European officers would meet the case.

1832. Has it ever occurred to you that the object might be gained by the formation of a staff corps?—I have often heard the subject of forming a staff corps discussed, but I think there are very great difficulties in the way.

1833. Does any mode occur to you by which the present system could be improved?—By increasing the establishment of officers.

1834. Might not an increased number of officers for the native regular corps provide for the case?—Certainly.

1835. Are you of opinion that the power of selecting military officers for civil appointments ought to be continued?—I think they have done their duty so efficiently that it is desirable that it should be continued; it is a very great inducement to officers to do their duty, and to distinguish themselves.

1836. From the experience you have had as adjutant-general, you can state whether one of the peculiar qualifications for those appointments is not a knowledge of the languages, and being able to communicate with the natives?—No officer can hold a staff appointment till he has passed the prescribed examination in Hindostanee, and done four years' regimental duty.

1837. Do not you consider that rule a great improvement in the service?—Decidedly.

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1838. Are you of opinion that any benefit would arise from inducements being held out to officers in the Queen's corps to acquire a knowledge of the native languages, in the same way as is done with respect to the Company's officers?—No doubt advantage would accrue to the Queen's officers from being so employed. I have known a Queen's officer to hold a political appointment. I recollect a Queen's officer holding a political appointment in Rajpootana.

1839. You think that there would be no unwillingness on the part of the Government, if power were granted to make selections from either service, according to their fitness?—I am not prepared to say that; the Government have been very jealous of anything of the sort. I think that proportionably with the number of regiments of each army, Queen's and Company's, in India, Her Majesty's officers have a fair share of the staff appointments in India. Queen's officers are constantly employed as Persian interpreters to the Commander-in-Chief. Lord Gough's Persian interpreter was a Queen's officer; Sir William Gomm's Persian interpreter was a Queen's officer; Lord Hastings's Persian interpreter was a Queen's officer; and there is a numerous general staff composed exclusively of officers of Her Majesty's service.

1840. You mentioned that considerable benefit has arisen from transferring certain duties, heretofore performed by the native corps, to the police. Looking to your statements that one-third of the native corps are employed on civil duties, will you state whether there are any other duties connected with the civil department which you think might be transferred to the police, in order to relieve the native corps?—There are other duties, such as treasure parties, and escorts of various kinds.

1841. If railways were established in India, would it not save the troops greatly in respect of fatigue?—I think it would be a very great saving, and I should think it would enable the Government to reduce the strength of the army very considerably.

1842. Would it not enable the Government to keep the European troops in health at the hill stations, by having the means of transporting them on emergency from one end of the country to the other?—Yes; sickness at the hill stations is exactly one-half what it is at the stations on the plains, according to the report of a medical committee upon the subject.

1843. Are you of opinion that nothing could tend more to render the army efficient than the establishment of railways speedily to different parts of the country?—I think it would conduce very much to the efficiency of the army.

1844. Mr. *Cobden*.] In looking at the relation which exists at present between the European officers and the sepoy troops under them, is it your opinion that the confidence and attachment between the two classes is greater or less now as compared with that which existed in former times under the old officers?—I think it is less now than it was when I entered the service; that there is less intercourse between the officers and the men than there was.

1845. Can you account for that?—I cannot.

1846. Do the officers go out with greater pride and *hauteur* of character, and treat the men with more contempt than used to be the case?—I cannot account for it, but I think it is the case.

1847. It arises of course from the conduct of the officers; if the officer desired to attach the sepoy to him he could do so?—Yes.

1848. The blame, if there is blame anywhere, must have been with the European?—I think so; I think it arises sometimes from so few of the senior officers being present with regiments.

1849. Mr. *Hume*.] Do not the European officers now more generally acquire the native languages than they did?—Great inducements have been held out by the Government to officers to study the languages; they cannot hold staff appointments till they acquire a competent knowledge of them. An officer who passes the higher examination receives a donation of 1,000 rupees, and 500 rupees for passing the inferior examination, qualifying for staff employ.

1850. Was it not expected that a superior knowledge of the native languages on the part of the officers would tend to increase the intercourse between the officers and the native soldiers?—I think it will have that effect in time.

1851. Can you suggest any mode by which that result could be promoted?—I think it would be promoted by retaining officers more with their regiments;

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the longer the men and the officers are together the better they like one another, and the more they associate.

1852. Mr. *Labouchere.*] Are the habits of the English officers in India more domestic than they used to be. Do they live more with their families, and are they more often married men?—Certainly; marriage has much increased among them.

1853. Do you think that that may have had anything to do with causing them to have less intercourse with the native soldier?—I think it may perhaps have had some effect.

1854. Mr. *Hume.*] Are there any messes in the native corps now?—I understand that since I left India messes are now compulsory in native corps. I speak merely from hearsay. It was not the case when I left India.

1855. Can you suggest any mode by which that intercourse, which ought to exist between the European officers of the native corps and the men, could be promoted?—I think the only way is to keep the officers more with their regiments. I have already stated that the more they are together the better they know one another, and the better they like one another.

1856. Mr. *Cobden.*] Do you think there is any difference in this respect between a state of war and a time of peace?—Certainly. In a time of war the officers and men are thrown together, and they learn to associate and to know one another.

1857. In a time of peace there would be rather a tendency to distance and alienation?—Yes.

1858. *Chairman.*] Is the same inducement held out to officers of the Royal army as to officers in the native army to acquire the native languages?—They each receive the same donation for passing an examination in the native languages.

Frederick James Halliday, Esq., called in; and further Examined.

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1859. Mr. *Mangles.*] IT appears from what you have stated that a considerable part of the duties of the European judge of the zillah are those of superintendence and control?—Undoubtedly.

1860. And the tendency of the system pursued by the Government has been, of late years, to discourage primary jurisdiction on the part of the European judges, and to confine them as much as possible to superintendence and control, and the hearing of appeals, in order to make the appellate jurisdiction prompt and close behind the native judges?—No doubt that has been the tendency for some years past, but latterly an idea has arisen that it has been carried a little too far; namely, that the English judges are left now without any opportunity of practising themselves in hearing primary cases. It is one of the difficulties of the system now, perhaps, to be improved, that the European judges are placed upon the Bench, in the Court of Appeal, without sufficient judicial training; the absence of any opportunity of practice in hearing cases in the first instance has been now supposed to act prejudicially.

1861. Much stress has been laid upon the importance, alleged by some, of confining the judicial servants entirely to the judicial department; do you think that practicable or desirable?—I do not think it either practicable or desirable.

1862. Will you state your reasons for that opinion?—Perhaps the most useful knowledge, and that which qualifies a man best for the exercise of the judicial function in India, is, after all, a thorough acquaintance with the natives, with their languages, with their modes and habits of business, and their disputes and differences about land, and arising out of land. That knowledge is only, as far as I know, to be derived from experience in the revenue department; and when a man has that, and has besides that amount of experience in *quasi* judicial matters which he also acquires in the collector's office, where a great deal of *quasi* judicial business is done, he has a great deal, perhaps, of what is necessary to qualify a man to be a good judge in India.

1863. It has been assumed that the duties of a collector in India are purely fiscal: will you state to the Committee what amount of judicial, or what you have just expressed as *quasi* judicial, business is performed by a collector in India?—

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India?—I think the greater part of a collector's duties in India are *quasi* judicial; the fiscal part of a collector's business is transacted chiefly by deputy, he of course being responsible for the result: there are disputes and questions about responsibilities for payment, about claims for excess of deposits and matters of that kind, about rents and matters arising out of the relations between landlord and tenant, about boundary disputes arising in course of settlement, also very often about what are called resumption cases; and there may be other things that I do not at present recollect; all the most important part of a collector's duty are *quasi* judicial; as regards resumptions, they are in all respects judicial.

1864. Summary suits?—Also summary suits; when I say "*quasi* judicial," I should explain that I mean judicial business performed in a summary method; it is, in fact, judicial business; but it is done with less attention to form than in the regular civil courts.

1865. In your previous evidence you have expressed an opinion that the best system, and the one most consonant with the feelings and habits of the people of India, is, that all judicial business should be done in a summary way?—As much so as the business admits of, no doubt.

1866. Mr. *Hardinge*.] Will you explain the administration of the law in our non-regulation provinces?—The administration of the law in the non-regulation provinces, as far as I am acquainted with it, differs, I think, in them all; there are scarcely any of them that are quite the same. Generally speaking, they are supposed to conform as nearly as possible to what they call the spirit of the regulations and laws of the regulation provinces, having discretion to depart from them when it may seem to them absolutely necessary. As to the procedure in some of the non-regulation provinces, there exists a set form of procedure laid down by rule perhaps in all, but it is less in detail in some than in others. To answer the question properly, I should go through the non-regulation provinces as far as I know them.

1867. Can you state how the law is administered in Assam and Tenasserim?—In Assam a very stringent method of procedure, corresponding to that of the regulation provinces, was laid down for the guidance of the judicial officers, and they follow that, adhering also to the spirit of the regulations in all cases where they think it applicable, and the tendency is to introduce it and adhere to it in all cases: they have native subordinate courts, and Europeans overruling the courts, much upon the same principle as they have in the regulation provinces. On the whole, in Assam the endeavour has been to assimilate themselves as far as they can to the system in force in the regulation provinces. In the Tenasserim provinces the system is different in some respects; they have a much looser code of procedure, and in that respect they have very much created one for themselves, and they do so as they go along; they administer the Burmese law in cases to which it is applicable, and in other cases natural equity, such as the case may seem to require. They have English universally as the language of the record, which is not the case in Assam, nor, as far as I know, in any other of the regulation or the non-regulation provinces; and they use in criminal cases, very successfully, and in a manner which I think might be made a model of in other parts of our territory, the institution of juries.

1868. Will you state who exercise those functions; how many officers are there in each province?—The following are the judicial officers in the Tenasserim provinces: the head of all is the commissioner, who acts as a court of appeal in civil and criminal cases for all the courts under him, and also as a sessions court to try heinous cases sent up by the magistrates. Under him there are European officers, called principal assistants; one of these is stationed in each division of the Tenasserim provinces; he has powers as a civil judge, very much resembling in extent those of the civil judges of the regulation provinces, and on the criminal side he is a magistrate; he is also the collector, all functions being joined in one hand there; he has one or more assistants, called junior assistants, according to the exigency of the business in the province, to whom subordinate civil and criminal duties are entrusted, subject to a reference and appeal to the principal assistant. There is also a native judge, a Burmese, called a "tseetkai."

1869. What salary does the native judge receive?—I think the native judge of

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of the Tenasserim provinces has not more than 100 rupees a month. The tseetkai has a jurisdiction in civil and criminal matters to some extent below that of the junior assistant, and subject in like manner to an appeal to the principal assistant, all being under the control of the commissioner.

1870. What other natives are employed in the judicial establishment besides this native judge?—I know of no other natives in the Tenasserim provinces employed in any respect in the administration of justice, except the village officer, who answers completely to our police daroga, who is called a Goung-gyoup, who is placed in the interior, and who has the control of the police; he has cases reported to him, and he reports to the magistrate, and sends up the criminals and the witnesses. Any other officers employed are merely ministerial officers, of whom they employ very few, the system having this great distinction from the system which prevails in the regulation provinces (owing, no doubt, to their having much less to do), that the judges can all of them perform in a great degree their own work, and are very little subject to the operations or influences of the native ministerial officers.

1871. Mr. *Hume.*] You have said that the juries, upon the whole, work well. Of what number do the juries consist in those cases, and of what class are the jurymen?—A list is made by the principal assistant in each division, which is revised by the commissioner, of persons qualified to serve as jurymen in the province, the list contains chiefly the names of natives, but there are a few Europeans and *quasi* Europeans upon it, especially in Moulmein itself, which is the head-quarters of the province. From those lists persons are summoned from week to week to attend at the head-quarters, where the sessions judge, that is, the commissioner, is sitting. He empannels a jury of, I think, three or five, and tries, with their assistance, all criminal cases which come before him, they being all of a somewhat heinous character. Juries are not used by the lower tribunals.

1872. When you say persons qualified, will you state what is the qualification?—A wide discretion in that respect is left in the hands of the principal assistant to the commissioner, and the commissioner himself; you may say that they have the actual nomination of the jury lists: and they exercise their discretion as to the persons whom they think fit to put upon them. Practically I have reason to think that the actual weight of the burden falls chiefly upon those who reside in, or for the time-being come for their business into, the chief town in which the sessions are held.

1873. Are juries only used at those sessions?—Only at those sessions.

1874. Mr. *Hardinge.*] Then the Punchayet system is not existing in those provinces?—No.

1875. *Chairman.*] Must the jurors all be agreed?—No; nor is their verdict potential; that is to say, the judge may set it aside.

1876. Sir *G. Grey.*] And substitute another verdict for it, or grant a new trial?—And substitute another verdict for it.

1877. Mr. *Labouchere.*] Do you know whether that is often done?—I do not know. I should say, speaking of these juries, that an order of the Government to attempt the administration of criminal justice in heinous cases, in the Tenasserim provinces, by means of juries, according to this plan, was issued many years ago, during Lord Auckland's administration. The officer in charge of the province at that time, and for many years afterwards, had great doubts of the propriety of using juries, and he took upon himself not to carry the Government order into effect. His omitting to do this was not known to the Government, the control over those provinces in those days being more lax than it has been since. But within the last five years an officer was sent there to take charge of the province, Mr. Colvin, who, finding this rule for the use of juries standing on his books, and not knowing why an attempt should not be made to carry it into execution, put it in force, omitting one part of the rule, which was, that the jurors should be paid for their services. He told me himself, and the information was corroborated by his successor, the present commissioner of the provinces, that it had worked extremely well; that the juries were of great use to him, both in suggesting lines of examination and methods of investigation, and generally by the equity and justice of their verdicts, and that the people showed no disinclination whatever to serve upon them; that he believed the

the people were getting gradually accustomed to them, and that it was becoming popular amongst them; in short, that the experiment had been completely successful.

1878. Mr. *Hardinge*.] Does the system in the other regulation provinces, under the Government of Bengal, differ materially from what you have now been describing?—It differs, no doubt. In the first place, they have no juries, though, under their discretion of using the regulations as far as they please, they have a right to use juries, according to Regulation VI. of 1830, which gives power for the employment of juries in the regulation provinces; but it is very seldom used. I am speaking now of Assam. In that and some other non-regulation provinces with which I am acquainted, they make their system correspond, in my opinion, too closely to the more formal system of the regulation provinces; they use too much writing and record, their proceedings are too exact and formal, and they have a necessity for the employment of too many ministerial officers. In speaking, however, of the employment of juries in the non-regulation provinces, I am bound to say that I have only lately been made aware, by a very distinguished officer, (Colonel Wilkinson, since resident at Nagpore), who had the control of the administration of justice in the south-western frontier districts, that he never tried a case, sitting as a judge, without the use of juries, constituted and empowered very much as I have described the juries in the Tenasserim provinces to be constituted and empowered, and that he always derived the greatest assistance from them in every respect, if they were carefully chosen, the choice resting always with himself; and that he would on no account have desired to administer justice without their assistance.

1879. Are the judicial establishments the same in all the Bengal non-regulation provinces?—They are the same, with some slight exceptions. In the south-western provinces the judicial establishments are very similar to those of Assam, and both are similar to the establishments in the regulation provinces; in both they have moonsiffs, and sudder amins, and principal sudder amins, and judges.

1880. Can you recollect what salaries the moonsiffs, the sudder amins, and the principal sudder amins, in those provinces, receive?—My impression is, that they receive the same salaries as in the regulation provinces.

1881. Viscount *Jocelyn*.] Do you think that the salaries are sufficient to secure proper men?—I have already said that I do not think the salaries sufficient, speaking of the salaries in the regulation provinces.

1882. Sir *G. Grey*.] Does the criminal jurisdiction of which you have spoken in those non-regulation provinces extend to Europeans?—No, but I should say that that is a difficult legal point, into which I am not competent to enter.

1883. But practically do you know whether Europeans charged with offences in those non-regulation provinces are amenable only to the Supreme Court of Calcutta?—Practically they are amenable only to the Supreme Court. There may be legal doubts whether in some of the provinces, especially those acquired since the last Charter, Europeans are not as much subject to the tribunals as any other inhabitants; but it is a question depending upon very nice legal argument.

1884. Are the juries of which you have spoken made use of in civil as well as in criminal cases?—In Tenasserim they are not made use of in civil cases.

1885. Mr. *Mangles*.] Do you think that a judicial officer (if there were such an officer), who had never held the revenue appointments, and had been confined entirely to judicial business from the time of his arrival in the country, would *cæteris paribus* be as competent for the judicial functions as an officer who had gone through the service, and been employed in revenue duties in the first instance?—I cannot think that he would be so competent; I think he would be wanting in a great deal of that knowledge which in this country grows up with a man as he mixes with his fellows, and transacts business for himself and others, independently of his legal profession.

1886. *Chairman*.] You mean in England?—I mean in England; here a man acquires all the knowledge which we wish him to gain in India by going through the revenue department, of himself, as he passes through life. I suppose

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pose that in this country any man who knew nothing but law would be a very bad judge: and still more must it be the case in India, where law is the least thing he has to know in order to fulfil properly the duties of the Bench.

1887. Mr. *Hardinge*.] Can you state the proportion of military officers as compared with civil servants in those establishments?—They are almost entirely military officers in the non-regulation provinces.

1888. Sir *T. H. Maddock*.] You have been describing the system which prevails in the non-regulation provinces; do you consider that the police is as efficient in those provinces as in the regulation provinces?—The question is very extensive; the Punjaub is a non-regulation province.

1889. The question refers to Assam, Tenasserim, Arracan, and the south-western frontier provinces?—I confess I think it is quite as efficient in the non-regulation as in regulation provinces.

1890. Do you consider that justice is as fairly and as equitably administered in those provinces as in the regulation provinces?—Indeed I do. I was very much struck, upon a visit which I paid three years ago to the Tenasserim provinces, when I took occasion particularly to inquire into the manner of administering justice, with the excellent manner in which justice was administered in those provinces, both as to form and substance. I think I have said that I thought that in many respects it might form a model for the regulation provinces.

1891. Then adherence to the regulations in Bengal is not altogether an unmixed good?—I have not been examined about the effect of the regulations in Bengal at all. I should say, that I should consider the regulations to involve a certain amount of mischief. The regulations relating to the judicial system were for the most part made at a time when the idea of the summary administration of justice was uncongenial to English minds, and it was thought that the best thing to be done was to make them as much like as circumstances permitted to similar tribunals in this country. Consequently the regulations were framed as far as possible for the purpose of making the courts in Bengal humble imitations of the courts at Westminster Hall; and being worked amongst such a people by men untrained to legal niceties, it may be supposed that this system produced, in course of time, a great deal of complexity and difficulty, and expense and delay in the administration of justice, which nowadays we see might have been avoided, and which are or will be avoided by the changes which are actually taking place gradually and prudently (for you cannot change these things on a sudden) in the country itself, under the recommendations of those employed in the administration of justice, and under the laws framed for that purpose by the Legislative Council.

1892. Supposing all the criminal laws were formed into a code, or that what is called the penal code, or any other code of the same nature, were passed into a law, do you imagine that it would be of any great advantage to the people generally, unless the form of procedure was altogether reformed and revised by the establishment of a good system of administering justice in the provinces?—I will answer that question in this way, that I think it is of primary importance to improve the procedure, and no doubt it is of great importance, secondarily to that, to improve the law. In fact, there does exist a very fair criminal law already, and the call for improvement, though urgent, is not so urgent in that respect as in respect to the procedure.

1893. Is there any plan now in contemplation of amending the forms of procedure in Bengal, or generally in India?—No new code of procedure has lately been brought forward, but the defects in our procedure, both in civil and in criminal cases, have attracted great attention in the minds of people, in and out of the service, and various amendments are gradually taking place in different parts of it, bringing it by degrees more into conformity with what is now thought to be an improved system; so that I think things are in themselves tending towards a very great improvement in that respect in Bengal. The Law Commissioners framed a code of procedure, but nothing has been done upon it.

1894. Have any recent measures been adopted to increase the efficiency of the police in Bengal?—The pay of the subordinates of the police has been considerably increased, and they have had new objects of ambition opened to them by the promotion of some of their number to be deputy magistrates; and

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and more recently there has been a plan for bringing the village watchmen more under the control of the magistrates, and for ensuring to them a regular and certain amount of pay, which formerly was by no means the case. The law for the purpose was under consideration when I came away, and I believe is under consideration still.

1895. Has any recent step been taken to prevent those serious outbreaks and breaches of the peace which formerly arose from disputes between zemindars, disputes generally regarding lands and boundaries?—I am not aware of any special measure having been taken for that purpose. Anything that tends to improve the administration of civil justice, and to enable persons to get speedy redress in the civil courts, if accompanied by an improvement in the police, will tend, and as far as it has gone, has tended to put down affrays on account of boundary disputes; but they still exist, though not, I think, by any means to so great an extent as in former years.

1896. Mr. *Ellice.*] Great complaints are made, in petitions which have been presented to Parliament, with respect to the efficiency of the police generally in India; will you state your impression of the efficiency of the police generally? —Here again I must limit my answer, by saying that I speak with reference to the police in the lower provinces, with which I am more familiar than any other, I cannot give it a good character; at the same time I must say, that in the hands of a good magistrate, even now the police are capable of being made much more efficient, and that they are more efficient than you would suppose to be the case, judging from the complaints to which allusion has been made. Much of the fault attributed to it, and the want of success which has been complained of, is almost insuperable, in consequence of the character of the people with whom you have to deal. You have a cowardly and untruthful people, not in the smallest degree disposed to aid the police, but rather the contrary; you have persons of power and influence, connected with the land, who, so far from assisting you, are charged by their countrymen with assisting thieves and robbers, and participating in their spoil; and you have, at the very foundation of the police system, a thoroughly ill-paid and demoralized set of village watchmen, with respect to whom the zemindars resist most strongly any attempt made to put them upon a better footing, because it will cause them, they think, additional expense; and you have to work through native agents, and through a class generally whom you cannot afford to pay sufficiently, and who, therefore, are exceedingly untrustworthy; you had a system which, in fact, was rotten when you found it, and which will take many years to put into a proper state; at the same time, I am far from saying that much might not be done, and far from hoping that much will not be done.

1897. Has there been any neglect, in your opinion, on the part of the authorities in India, in respect of doing their utmost to improve this system of police?—I cannot say that there has been neglect; perhaps the authorities have not gone into the matter quite so fast as some might have wished, the chief obstacle having, in fact, been the want of means; but there has been always a very strong disposition on the part of the Government to improve the police, and from time to time there have been very great efforts. In 1838 a committee was formed for the purpose by Lord Auckland, to investigate the state of the police in Bengal, and they examined a great number of persons in and out of the service, natives as well as Europeans, regarding the best manner of improving it. The Government has adopted, I believe, every suggestion made by that police committee of any importance between that time and this; so that it can hardly be said that the Government has neglected its duty. But I should say that since 1838 public opinion has advanced a little; and it has been thought that something more or something else might be done; and it is because that something more or something else has not been done now, that people are apt to think the Government has neglected its duty.

1898. Mr. *Hardinge.*] What is your opinion as to the substitution, which has been proposed by some persons, of a military police for the present civil police?—With respect to Bengal, a military police in Bengal could not consist of the natives of the country. The Bengalee is not suited to be a soldier, and therefore a military police in Bengal must be a police composed entirely of foreigners, men despising and fond of oppressing the Bengalee, having no

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feeling in common with him, and not understanding his language; and it is easy to imagine what would be the effect of appointing a police with arms in their hands to arrest thieves and to detect crimes in a country, the inhabitants of which they despised, and with the language of which they were utterly unacquainted.

1899. Sir *J. Hogg.*] Has any force, in the nature of a military police, been at any time in existence in Bengal; and if so, was it found to answer, and has it been continued, or has it been discontinued?—There were, for a number of years, certain regiments, called provincial battalions, attached to the police, as a sort of military police in Bengal, and they were found not to answer at all; as a police, whenever so used, they were wholly inefficient; and as a military force, on almost all occasions whenever it was necessary to try their mettle, they thoroughly failed; and they were done away with, with one or two exceptions, by Lord William Bentinck, and I believe no one has regretted it.

1900. Viscount *Jocelyn.*] What were the names of the different ranks of officers in the civil police force?—There is, first of all, the magistrate, with one or two assistants under him, as the case may be; he has also under him two or three deputy magistrates, not in the regular service, and chiefly natives, stationed either at the chief station or in different parts of the interior of his district; below them again there are the daroghas or thanadars, who are stationed in various parts of the districts, each with a body of from 15 to 25 burkundauzes, or ordinary police constables, under them; they are assisted also by an officer called a jemadar, who is a kind of sergeant, and by a clerk, who is called a mohurrir; under all these again are the village watchmen, who ought, according to understood usage, to be at the rate of about one to every 50 houses in the village; but they have fallen into very great discredit and disorganization, in consequence of there being actually no law which empowers the Government, or any officer of the Government, to enforce either their appointment or the payment of their dues.

1901. What is the pay of the lower class of officers in that force, beginning with the jemadar?—The pay of the jemadar is 10 rupees a month, and the pay of the mohurrir is sometimes eight.

1902. What is the darogha's pay?—The darogha is one of those whose pay has been increased latterly; his pay is 50 rupees, 75 rupees, or 100 rupees a month; it has been raised from 25, which was the rate at which it stood for many years.

1903. What class of men are the officers employed in the lower grades, from the jemadar downwards?—They are of a very low class; below the jemadar there is nothing but the burkundauzes, or constables; below them there are the village watchmen; the burkundauzes only receive, I think, four rupees a month, and they have very large opportunities of peculation and oppression, and they are generally of a low order in society, though not always by any means of a low caste; the village watchmen are the lowest; they are formed almost entirely of very low and degraded castes, mere outcasts, in fact; they would receive, if they receive anything at all, about a rupee and a half a month.

1904. Do you believe it possible to have an efficient police force when the men are paid at so low a rate as that?—It is wonderful what is possible in good hands; and seeing what I have seen, and what I have heard has been done by some magistrates in India for many years past with these extraordinary materials, I cannot say that the thing is impossible, but it is very difficult.

1905. Do you think that if opportunities were given to men, who have served in the army as soldiers, of entering the police force, you would get a more efficient body of men?—I do not; principally for the reason I have stated, that many of the men who serve in the army are Hindostanees, and we are speaking of Bengal; the Hindostanees do not even know the Bengal language, and they particularly despise the Bengalee men, and oppress them wherever they find them; they would be utterly useless as a detective force, at all events, though if mere courage were required they would no doubt be all that could be desired.

1906. Do not you believe that the class of men by whom the police is now carried on are open to bribery and to all kinds of corruption?—To an immense extent.

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1907. Mr. *Labouchere*.] You stated that there was a general impression that something more, something else, ought to be done, with reference to the improvement of the police, besides the recommendations that were made by the committee to Lord Auckland; what do you mean by "something more or something else;" what is the kind of way in which it is thought that the police might be improved?—One idea, which has been a very favourite idea with the indigo planters of the interior, is, that if the police at the subordinate stations was put into the hands of Englishmen it might be an improvement. Another has been, that if the indigo planters themselves were largely employed as magistrates in the interior, that would be an improvement. Zemindars, again, are apt to fancy that if similar powers were given to them it would improve the police; and they very often suppose that it is for want of sufficient vigour in the law and in the administration of it, to be exercised in a way quite incompatible with our notions of justice, that the police works ill. For instance, this has been a very favourite notion with them: they would have the magistrates seize, and, without further investigation, commit to prison for the remainder of their lives, any persons whom the zemindar said were people of bad character (a thing conceivable in a country where you can rely upon testimony, but in India, utterly inconceivable), and which would put all the people of the village entirely into the hands of the zemindar, not to speak of their other enemies.

1908. Are you able at this moment to specify any general improvement in the police system, recommended by public opinion, which you think feasible?—I cannot at this moment recollect any that I could recommend.

1909. Are you of opinion that there is any great improvement in the system of police which might be effected by the Executive Government?—There is no question that rendering the pay of the village police certain and sufficient, and rendering their situations respectable, would be the chief thing; and that alone would go a great way towards the improvement of the police, I think the greatest way. After that, as soon as it could be afforded, the pay of the subordinate officers of police, of whom mention has been made, should be increased; because while they are paid at a rate that renders it almost impossible to punish them for petty bribery, though you know it to exist, you cannot rely upon them as instruments in your hands.

1910. Is the police materially better in some parts of India than it is in others?—My experience of other parts of India, besides Bengal, is slight, and not recent; but as far as my experience of the police in the upper provinces has gone, I should say it is very superior to that of Bengal.

1911. To what is that to be attributed?—Partly because the people will not be so oppressed and so bullied as they are in Bengal, but chiefly because they work for themselves. Dacoits cannot enter a village in the upper provinces, tie up the women and children, and put them to the torture, without running the chance of the people opposing them by force; they will do the best they can for themselves in all cases; but in the lower provinces they act upon all those occasions like a flock of sheep.

1912. Sir *G. Grey*.] It has been stated that there has been an efficient police lately established in the Punjaub; are you aware of the constitution of that police force?—I am not.

1913. Mr. *Mangles*.] Some years ago had you not a plan of your own for taking the village police out of the hands of the zemindars entirely, and placing it under the control of the Government?—Yes; that arose out of my strong impression that until the village police was better constituted you could not hope for order; and I doubt whether you have any chance of its being well organized till you put it completely into the hands of the magistrates. It was strongly opposed by men here and in India, to whose judgment great weight is due. Recently the Government has made the nearest approach to the system which I thought was possible, in the improvement which I have stated to be now in progress; namely, securing to the watchmen the right to claim a fixed and adequate rate of pay, and giving the magistrates the power to enforce the payment, and to see that the vacancies in the village police are properly filled up. But the rest is left as before, in the hands of the villagers or zemindars, as the case may be. That is an approximation to the system which I proposed,

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proposed, with which I myself at present am satisfied, and if it is carried into effect great improvement will be the result.

1914. Will you explain how the village chokeydars are appointed; are they appointed by the Government, and if not, by whom?—The Government has by law no control whatever; and latterly, in practice, it has had no control whatever over either the appointment or the dismissal of the village chokeydars. The magistrates did exercise control for a number of years, but it was discovered by the zemindars concerned that the magistrates had no legal power, and, of course, that being the case, the magistrates were obliged to give it up. It rests now entirely with the villagers, or with the zemindar, or with the villagers and the zemindar collectively, to appoint the chokeydars, and they have to pay them, or to leave them to pay themselves by connivance at robbery, or in any way that they can; practically they omit to appoint them whenever they can, and pay them as little as they can.

1915. You spoke of the character of the people as being a great obstacle to the efficiency of the police. Is not the character of the instruments unavoidably used by the magistrates part of that obstacle?—No doubt.

1916. Is it not the fact, that a very large proportion of the time of every magistrate is taken up in watching his instruments and guarding against their abuses, so as to prevent their interfering with the discharge of his duties?—Every magistrate is obliged to act as if all the men under him were liars, and therefore a great part of his time and attention is taken up in foiling the lies and tricks of those upon whose agency, in theory, he is compelled to rely.

1917. Sir *T. H. Maddock.*] Do you consider that any reform of the village police will be efficient as long as the persons employed in that force are to receive their pay from the zemindars?—Yes; I do not think that is impracticable so long as they have a right to claim their pay, and the power exists of enforcing their claim.

1918. Would there be any difficulty in compelling the zemindars to pay annually, or at stated periods, into the treasury a sum sufficient for the proposed salaries of those police conservants, in which case their pay would be distributed to them by the collector?—That was precisely what was alluded to as my proposition, but it was thought by many, and I think with justice, that it tended to too much centralization, and that it severed the rightful connection between the zemindar and the village, and the watchmen of the village, and that it would be better done in the manner now proposed, by causing the zemindar to pay what he ought, but not cutting off the connection between him and the village police.

1919. You have described the gradations of the police force; will you inform the Committee whether the officers of police generally, and the burkundauzes in particular, are armed or unarmed?—The burkundauzes are armed with swords, in no other way; and the village police are armed with sticks or spears.

1920. Can you state whether of late years there has been any diminution in the number of dacoitees and gang robberies in Bengal?—In four or five districts in the immediate neighbourhood of Calcutta, so far from a diminution, there has been an increase; in other districts there has been a diminution; but all over Bengal there has been a great diminution during the last few years in the atrocity of the nature of those gang robberies; dacoitees are more numerous, but they are more insignificant in character.

1921. Mr. *Mangles.*] Do you mean to say that there has been an increase in the number of gang robberies of late years, as compared with the period when gang robberies were so rife in Kishnaghur and Bardwan in former years?—I am not prepared to say whether it is so or not; but as regards the periods with which I am better acquainted, there has been a great increase.

Jovis, 17° *die Martii*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir George Grey.
Mr. Hardinge.	Sir C. Wood.
Viscount Jocelyn.	Mr. Edward Ellice.
Mr. Baillie.	Mr. Spooner.
Mr. Disraeli.	Mr. Lowe.
Mr. Hildyard.	Mr. Cobden.
Lord Stanley.	Mr. Hume.
Mr. Mangles.	Sir J. W. Hogg.
Mr. R. H. Clive.	Lord John Russell.
Mr. J. FitzGerald.	Sir T. H. Maddock.
Mr. Elliot.	Mr. Labouchere.
Mr. Vernon Smith.	Sir R. H. Inglis.

THOMAS BARING, Esq., in the Chair.

Frederick James Halliday, Esq., called in; and further Examined.

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1922. Viscount *Jocelyn*.] HAVE you any suggestions to make with the view of improving the police?—The chief suggestion I have to make is, as I have already mentioned, the improvement of the village chokeydars, and beyond that, the improvement of the salaries of the subordinate native police officers of different grades; after that, I think the improvement of the police is chiefly to be looked for from improved administration. I look upon it that constant and careful attention to the police, on the part of the Government, and a vigorous administration of the system as it exists, improved in the manner I have proposed, by the magistrates and the superintending officers, would do all, or nearly all, that is required; at all events, all that I can at present suggest.

1923. Do you think that the inefficiency of the police is at all owing, in certain cases, to the fault of the magistrates?—No doubt there are cases in which the inefficiency of the police is owing to the fault of individual magistrates, not to the fault of the magistrates as a body; but individual magistrates have failed in their duty, and whenever they have done so, you have a system resting upon the qualifications of a man that has broken down.

1924. *Chairman*.] Is the administration of justice by the covenanted judges, that is to say, the English judges, in the regular civil service, successful and satisfactory?—I cannot say that it is altogether so successful or satisfactory as could be wished: hitherto there has not been much of the principle of selection in the appointment of civil judges; they have succeeded a great deal too much by mere seniority; and the consequence has been, that men, after serving a certain number of years as collectors, unless there was anything very marked against their character or their conduct, have thought themselves entitled to succeed, and have succeeded, almost as a matter of course, to the office of judge. Of course, under such a system, though there are, no doubt, some very able men amongst the judges, there are also some exceedingly inefficient men; and there are a great number of men who are neither one thing nor the other, commonplace men. I am anxious, however, to say that what I have seen in print regarding the appointment of the judges, at all events of Bengal, namely, that they are appointed when they are unfit to be collectors, and, as has been said, because they are unfit to be collectors, is, as far as I know, wholly untrue; what I have seen stated in another way, as another subject of complaint, may almost be said to disprove that statement. It is from among the judges that the commissioners of revenue, who are very old officers, always having the confidence of Government, and having very serious duties and trusts reposed in them, are selected. Generally speaking, of late years, from those commissioners of revenue have been selected the judges

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judges of the Sudder, the chief court of appeal. Now, if the body of judges is that from which those selections are now made, it is perfectly obvious that they are not the refuse of the service, not a body into which is cast all that is unfit for employment elsewhere; and, in fact, such is not the case. The principle of selecting judges, rather on account of their merits than on account of their standing, is, I think, acknowledged now by the Government, and is beginning now to be acted upon; and that it has not been acted upon heretofore has not been, I think, from the absence of any disapproval of mere promotion by seniority, but rather on account of the very great weakness of the local Government of Bengal, arising out of the numerous changes at the head of it which have occurred during the years which have elapsed since the last Charter Act, amounting, I think, within my knowledge of it, to as many as 17 changes in as many years. It must be quite obvious to any one that a Government so frequently changed can have neither sufficient knowledge nor interest in the affairs it has to administer, nor sufficient strength to administer them properly, and with that vigour which is required, in order to make all promotions and appointments strictly on the ground of merit, and not at all on the ground of seniority. I ought to mention perhaps, on the other side, that there has been very great improvement of late years, in consequence of a law passed not long ago, by which all the judges are obliged to write their decisions in their own language, with their reasons; and the practice which has arisen of publishing, month by month, in pamphlets, which are widely disseminated, all the decisions of all the English judges, all over the country. This in some degree supplies the place of a public for each judge, and of course strengthens the feeling of responsibility which it is so desirable to fix upon every man at the time he is judging of the rights of others. Speaking of the administration of civil justice, I may say also, that to my mind the system of appeal is in a great degree unsatisfactory; it has been so both in civil and in criminal matters: I am speaking now entirely of civil matters. Except in the highest courts, and there the change has been but recent, it has been simply an appeal from one mind to another mind, from one single judge to another single judge; and under the method of selection that I have described it has by no means always been the case that the appeal judge has had more experience, or has had greater qualifications, than the judge of original jurisdiction; the appeal has been rather too much of a lottery, and that has introduced an amount of uncertainty into the administration of civil justice, and has fostered a disposition in the natives to engage in litigation almost as a gambling transaction, to a degree that is very undesirable. This was the case also in the Sudder Court, the highest court of appeal, though somewhat after a different fashion, till very lately; but of late the law is, that all appeals must go before a bench of three judges, and the decision is the decision of the majority; and it is very remarkable since that time of how much greater weight the decision of the Sudder has been than it used to be formerly. My notion generally is, that you have not the means of securing a bench of two European judges at every zillah station in the Mofussil, and that it is not desirable or necessary that you should have such a bench, in order to improve the system of appeal. But I have no doubt (and have recommended it in writing before this) that you might have in almost every zillah station, perhaps in all, an appeal bench, consisting of the zillah judge, and one native judge, well selected and well paid; and this bench should sit and decide upon all cases of appeal from the native judges in the interior, the English judge having the casting vote in case of difference.

1925. Is the progress of improvement which you have mentioned of such an extent, or of such a description, as that without any legislative measure, or any other steps being taken, the defects you have mentioned will be gradually and speedily corrected?—Unquestionably, the Government as it at present exists has full power, and, I am satisfied, full inclination, to introduce improvements, and to apply them to all defects. There is a strong disposition to reform whatever is wrong, though things are done more slowly by the Government in that respect than, perhaps, some ardent men might wish that things should be done.

1926. Is not the frequency of the absences and changes of civil judges a defect?—Not by absences, as such. Leaving the seat of justice vacant can scarcely be said to exist, except by the merest accident; it does not exist at all as a thing

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spoken of, or complained of, or even noticed; but the changes, as I mentioned in the former part of my evidence, are more frequent than could be wished, and whenever they occur too frequently, they, of course, impair the sound administration of justice. To this also, for some time past, the attention of the local Government has been very closely directed; and I think it was shown some time ago, to satisfy inquiry from home upon the point, that instances of that description have been reduced almost to a minimum. Of course, in a country where a man's health may at any moment break down, perhaps very suddenly, and he must immediately come away, you cannot prevent occasional absence, and you must be prepared to meet it: but that men are removed without cause, or merely for their advantage, from one station to another, to the detriment of public business (as certainly has been the case within my knowledge in former years), is not the case now; on the contrary, it is very carefully guarded against.

1927. Passing to the question of criminal justice; is the administration of criminal justice satisfactory?—I think the administration of criminal justice is, on the whole, more satisfactory than that of civil justice, perhaps because it is an easier subject; but there is room for reform there also. The chief thing that I would notice is the tedious manner in which cases are very often heard. It has come down to us from former days, when no doubt there was a distrust of the qualifications, especially of the knowledge of the vernacular languages, of the judges in the interior; but it proceeds upon the idea that everything is to be corrected by a system of appeal; and this system of appeal has led to a most cumbrous and tedious method of record, every single word in the course of the trial being taken down at length, every question and answer, and all that is said and all that happens, not in shorthand, but in the very slow, difficultly-written and difficultly-read native character; the consequence of which is, that I myself know cases in which one affray or gang-robbery has taken as much as six weeks in hearing; I mean that the judge sat six weeks in the trial of one case. That is an extreme case; but it is the fact that, on the whole, the hearing of those cases is very much more tedious than it ought to be; and I do not know any mode of rectifying that so long as you permit this system of constant appeal and written record. If you would allow, as you might now allow, the knowledge of the judges of the vernacular and their qualifications being so much superior to what they used to be when the system was established originally, and tending to improve every day; if you would allow the notes of the judge to be a sufficient record for the purposes of revision, and if you would give them, as I believe you might give them, juries for their assistance in the trial of all cases at the sessions, and if you would limit the appeals to cases in which some strong cause was shown, or in which the jury differed from the judge, or in which, in the discretion of the superior court, there was some special reason for re-opening the case, and if you would cause all other decisions to be final, I believe that in the long run you would be doing better for the administration of justice than by aiming at that extreme accuracy, which is the object of the present system, which, in such cases as I have mentioned, where the trial lasts for five or six weeks, makes the administration of justice, perhaps, almost a nuisance. Those two or three things, the limitation of appeals and the use of juries in criminal cases, and the judge taking his own notes, and those notes being considered sufficient for the revising court in the few cases that would come up for revision, form, I think, nearly all that I have to say on the score of the improvement of the administration of criminal justice. I do not now allude to the exemption of Europeans, British subjects, from the criminal courts; for that is a special matter which is now generally under consideration by the Government here and in India.

1928. You mentioned the introduction of juries; what is your opinion as to the qualifications necessary for a juror?—I do not think that any precise qualification can be laid down; I think you might leave that very much to the discretion of the local authorities. You must say that a man of apparent respectability and intelligence must be put upon the jury list; and you must leave the local officer, say the collector, subject, perhaps, to the revision of the commissioner, to make out the list in the best manner that he is able, leaving parties to appeal, either for the sake of being put upon the list or being struck off the list, as they may desire. I should endeavour, in the course of the administration of justice, to make the being upon the jury list a mark

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a mark of honour and respectability; I would, therefore, strike off all persons who failed in any of those respects: and I would endeavour, as far as I could, to give some distinctions, upon suitable occasions, to persons upon the jury list, making them superior to their fellows, and making it, if possible, an object of anxiety to come upon this list; because I am satisfied that, however well the jury system might work in the end, it would not at first be a popular thing to introduce amongst the natives: they would think it harassing and annoying; they would not understand the value of it, and would endeavour as far as possible to evade it. Still, wherever it has been introduced, it has worked, so far as I know, extremely well. I have said upon a former occasion, that in the Tenasserim Provinces the institution is very successful; and also in the districts of the south-western frontier, where it has been constantly worked by Major Wilkinson. I have seen also the same report by a very distinguished judicial officer, Mr. Lushington, who returned last year after having served in the Upper Provinces, showing the wonderful success with which he had used juries in a number of criminal cases as sessions judge in the Upper Provinces. On the whole, I am satisfied myself that the use of juries would be a very great improvement, and would tend not only to improve the administration of justice, but to cultivate and civilize the people, and to instruct them in the administration of their affairs. It is a question, of course, whether juries so used should be able to give a verdict binding on the court or not. The tendency of opinion in India hitherto has been, arising I think out of timidity, that they should not be able to give a binding verdict; on the contrary, the judge has everywhere been allowed to overrule their verdicts, and he has overruled them freely. I confess myself, that I should not be at all unwilling to give them ultimately a completely binding power of verdicts. All the evil that would happen, as far as I can see, would be that they might acquit in some cases where the judge might wish to convict. I do not think that would be the general tendency of juries. I should rather be afraid of the opposite error, namely, of convicting too readily, that being generally the native idea of the administration of criminal justice. But if they did, there would be a sufficient remedy for that; the judge should be able to report it to the higher authorities as in his opinion a case for mitigation or absolute pardon; or the superior authorities, that is to say the Sudder Court, should have the power, upon cause shown, of ordering a new trial. I must say, judging from my own feeling, that I imagine that the people would take a deeper interest in the administration of justice as jurymen, if they felt that their verdict was to have that power in the decision of the case, than they would do if they knew that they were merely to give an opinion which the judge might toss overboard if he chose. I myself heard in Ceylon, when I inquired into the subject very particularly, upon a visit which I made there about three years ago, that the use of assessors, which is a system of juries, whose verdict the judge has power to set aside whenever he likes, has not worked well at all; and when I was there they were on the eve of getting rid of it altogether, in consequence of the complete failure of the system, the natives showing great apathy about it, and it being of very little use. I apprehend that that was in a great measure owing to their feeling that they had no real power in the case, and their, therefore, taking very little interest in it.

1929. Do you think that the verdict of the jury ought to be, as in England, conclusive, and not subject to the approval of the judge, as you mention that it is in Tenasserim?—Quite so: I mean that it should be conclusive.

1930. Would you have the same number of jurymen as in England?—No, you cannot attempt that; it would make it a great deal too harassing; I think you might have perhaps three or five. Three is the number which has been generally used; five would be better if you could get that number, giving a verdict by the majority. That would be as much as you ought to aim at, and I dare say that you would even then find some difficulty. I would limit it for some time to come to five or to three.

1931. Would not the distinction which you have proposed should be given to jurymen as a reward, have a tendency to induce juries to frame their verdicts so as to propitiate the Government and the local authorities?—I do not think juries would ever think about the Government in the matter; but I apprehend they would think, reward or no reward, about the opinion of the local authority. It has been remarked by all who have tried the institution of juries in India, and,

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and, in fact, by all who know anything about the natives, that in endeavouring to obtain their opinions upon a subject, you must always carefully conceal your own; for, either from too much submissiveness, or from apathy and carelessness, or what it may be I know not, a native, when he is asked for his opinion, judicially or otherwise, will always, if he possibly can, frame his answer according to what he supposes you wish, especially if the question be put by a person in authority; they seem to think it a matter of necessary politeness, and it is a thing of great difficulty to get from a native an opinion upon any subject except one merely trivial and commonplace: therefore my answer to the question which you have put would be, that it would depend upon the careful administration of the system by the judges who used it; if the judge allowed the jury to see the bias of his own mind before he called upon them for their verdict, I have no doubt whatever that the verdict of the jury would, generally speaking, be in consonance with the opinion of the judge; and for that reason the system of charging the jury and giving an opinion (which is the English system) by the Bench, before they give their verdict, would be altogether inapplicable to the system of juries in India; the judge and the jury together must hear the case, and, that being done, the judge, without showing any bias whatever, must call upon the jury to state their verdict absolutely; having done so, he may declare his own opinion.

1932. Would not the judge, as in England, state the law to the jury?—The judge might state the law; I do not think that the system of charging the jury should be pursued, except where it was necessary to explain the law; but the law being so clear and simple, and so different in that respect from what prevails here, I do not think it would be necessary in many cases to charge the jury in that sense; but in whatever the judge is called upon to do before the verdict is given, he must be careful not to let the jury see what his opinion is, or the verdict of the jury will correspond with that, and not with the facts of the case.

1933. With regard to the Sudder Courts, do you consider their constitution satisfactory, or would you suggest any improvements?—Of late years the selections of the judges for the Sudder Court have been very carefully made. I think the Sudder Courts at present stand high in public estimation. I myself have long wished to see an English judge permanently at the head of the Sudder Courts. I think that his want of knowledge of the native language would not be important, because, at all events in Calcutta, the language of the Sudder Court is almost entirely English, and any knowledge which he might want of the people, and of their customs, would be made up to him very soon by the assistance of his colleagues and by the Bar, which is an able Bar, and an improving one, which he would have before him in the Sudder Court. I think the presence of a liberal English judge, something more than a lawyer, who should be in a manner responsible for the administration of justice all over the country, and who should be at the head of the administration of justice, would have some effect in introducing regularity and many important reforms in the administration of justice generally. It would be something of the same sort, and would have something of the same effect, that the placing an English statesman at the head of the Government, or an English general at the head of the army, has over those two branches. I think also that the time has come when you might put a native upon the bench of the Sudder Court. It is in the administration of justice that the natives have longest and most effectually served us; it is, I think, generally admitted that it is that for which they are most fitted. There are amongst them men who have done very good service, who have spent their whole lives upon the judicial bench, and I think it would be a very good thing for the country, for the people, and for the administration of justice generally, that there should be some such great reward as this; some such great prize in the lottery to look forward to. It is precisely in that way that I think the natives may be brought forward, not by putting them into the covenanted service, which would be a mistake, because when you put a man into the covenanted service you put him in young, and you take the chances of success or of failure. The chances of success with young men from England are, on the whole, with good management, in their favour. The chances of success at present with young men born in India, manage as you will, would be, generally speaking, against you, it being notorious that the natives at present, and perhaps it will be so for a long time to come,

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come, whatever be their promise as young men, are very apt to fall off and to disappoint you exceedingly when they come forward into life. Now a failure in the attempt to bring natives forward in that manner, by appointing them to the covenanted service, would have a highly dispiriting and discouraging effect; it would never be compensated for by the mere fact of having put three or four, or ever so many young natives into the covenanted service: it would throw the advancement of the people back many years. On the other hand, by trying them experimentally, first in subordinate offices, and then carefully putting them forward with a liberal hand, as they show fitness, and then by a careful selection, in rare instances, where they show peculiar fitness, putting them into higher positions of administration, especially as regards the administration of justice, that appears to me to be the manner in which the cultivation and civilization of the natives, and the improvement of their fitness for the administration of their own affairs, is to be looked to and to be effected. I believe that putting a native judge into the Sudder Court would have a very good effect. The language in the Sudder Court in Calcutta is now chiefly English, and owing to the system they pursue it will become entirely English: English barristers practise largely before it, and the court is considered to be, upon the whole, so good as to form almost a model.

1934. You stated that, however promising the young natives were, there was frequently a disappointment when they became of mature age; do you mean disappointment as it regards the development of their talents, or as it regards the development of their moral character?—Both; it is curious that they fail in both ways. There are a great number of young men of promise coming from our educational institutions; and it is a notorious fact that a very large proportion will break down by the time they are 25, sometimes in morals, sometimes in intellect, and as often as not in both.

1935. Mr. *Baillie.*] Are there many barristers in the Sudder Court, natives, who practise in English?—There are several. In explanation of that, I may say that English has been introduced as the language in the administration of justice in the Sudder Court, somewhat in this way: the nominal language of the court is Oordu, but the records of the appeal cases from the various courts come up in the language of the court in which they are tried; Bengalee from Bengal; Oordu, or Hindostanee, from Baha; Oorya from Cuttack, and so on. The language in which the pleadings are supposed to be conducted, if there are oral pleadings and oral discussion in the Sudder Court, is Oordu or Hindostanee: but a rule has been made, that whenever the vakeels, who answer to the barristers, on both sides understand English, and are willing that the business should be conducted in English, it may be so conducted. The effect of that, and of the gradual coming into the court of English barristers from the Supreme Court, and of natives who understand English, and of Englishmen, neither barristers nor natives, who of course understand English better than anything else, has been to make the use of English in the Sudder Court the rule, and the use of Hindostanee the exception; and Hindostanee is fast going out as the language in use in the Sudder Court, with very marked advantage.

1936. *Chairman.*] With regard to the zillah judges, would it be advisable to make a selection among English barristers, either in India or in England, for the purpose of appointing zillah judges?—I cannot think that that would be any improvement. To take barristers from England, I suppose you must take barristers of a certain number of years' standing; five years' standing. To fill all the judgeships, you would require fully one hundred, perhaps more. I doubt very much whether the salary offered for the office, being an unincreasing salary for life, with no hope beyond it, would attract any but very commonplace men from this country, seeing that higher salaries there have been found insufficient sometimes to tempt the best men that were required for the situations open to barristers in India. Then, when you had got those men who would be commonplace men, they would be entirely ignorant of the languages, and they would take a certain time, which would be all lost time, in acquiring them; and they would be wholly ignorant of the people; a knowledge which, when once placed upon the zillah bench, with no previous method of acquiring it, I think they never would obtain; so that looking at the considerable term which there would be of ignorance of the language, and the still longer term of ignorance of the people and their customs, I do not think, at all events, that

that you could look for any improvement upon the present system, such as the present system is capable of if well managed; and if there be no improvement to be expected from it, such a change, for the sake of change, is not what I should consider advisable. I may add to that, that barristers so sent out, unless you drafted them into the civil service, which so long as you retain the civil service for the administration of affairs in India, is obviously objectionable, would have nothing to look to. As a class, they would be a downward-tending, hopeless class; they would be deteriorating by the climate, and deteriorating by position; they would see persons constantly passing them. I think that they would take a long while in becoming fit for the situation of judges, and that soon after they had become fit they would take a downward tendency, and become unfit. My opinion decidedly is that you would lose rather than gain by such a change. As regards the selection of barristers in India for zillah judges, I would say one word, namely, that the courts there would not supply barristers enough; and where they did supply them, anybody who knows the state of things will know that you would get nothing but the mere refuse. No person of any hopes or ambition, or of any power, would go out from the Supreme Courts to the Mofussil, as judge, to pass the rest of his life in the Mofussil, except those who were fit for nothing else, or rather were not fit for that, but were fit for nothing at all.

1937. What training would you recommend for the zillah judges to fit them for their duties?—To begin at the beginning, I should like to see the zillah judges, perhaps, more carefully selected in this country when they are first sent out, or if not more carefully selected, at all events more carefully weeded and better qualified before going out.

1938. Mr. *Mangles.*] You mean the whole of the civil service?—The whole of the civil service. If the civil judges are to be selected from the civil service, their preparation must begin when they are educated for the civil service; I think they might be prepared by keeping them longer in England, and by requiring from them a considerable knowledge of history, constitutional history, the history of India, jurisprudence, the elements and principles of law, and things of that sort, likely to fit them hereafter for the administration of justice. When they arrived in India after having passed the preliminary examinations to which they would then be subjected, of which I have already spoken in a former part of my evidence, they would go out and receive very useful training as assistants to magistrates and collectors, all tending to qualify them in a liberal sense for the bench; and from all the experience they would gain in their progress through the revenue department, they would become, in the manner which I have already explained, more and more fitted for the situation of judges. I wish, however, that a very useful office, which formerly existed, that of registrar, or assistant judge, could be revived; it was an office in which young men were placed in order to administer justice in comparatively unimportant cases, unimportant at all events as regards amount, and under the immediate eye of the judge, and in which they had opportunities of acquiring practice in trying civil cases, which is now in a great degree wanting. This office was abolished by Lord William Bentinck, because of the plausible objection that young men were learning to decide well the cases of the wealthy by deciding ill the cases of the poor; but the risk you now run is that they learn to decide neither the one nor the other; and they are placed in a situation of control, and on the bench of appeal, when they have had no previous experience in the trial of civil cases in the first instance. There would be no difficulty, so far as I see, in re-establishing that office; it was abolished very much against the opinion of the more experienced members of the civil service at that time, and I believe it would be generally felt to be an improvement to re-establish it.

1939. *Chairman.*] The registrars were attached generally to the zillah courts?—Yes, each judge had a registrar attached to his court.

1940. Then the Committee are to understand that, with the changes you have suggested, you would generally prefer the present system of allowing men brought up in other branches of the civil administration to succeed to judicial appointments?—Yes, I would; supposing, of course, that there is a discretion used in selecting them. It should not be that every man after he has arrived at a certain standing should be a judge, because he has served without absolute reproach as a collector; but there should be some selection,

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some method of probation, and some fair expectation that the man selected is fit to be put upon the judicial bench. I believe that the knowledge generally that the promotion was managed in that way, would of itself produce a considerable amount of fitness.

1941. The Committee are aware that the Law Commission is practically extinct; should you recommend its revival, and if so, would you recommend it in the shape in which it was originally constituted?—Not, according to my notions, in the shape in which it was originally established. I believe it is generally admitted that the Law Commission as originally established has failed of success; opinions may differ as to the reasons. My own notion of the reasons is, that they failed because of the relation in which they stood to the Legislative Council; they formed no part of the Legislative Council: they sat apart and concocted schemes very ably and very carefully for the improvement of the law; those plans were then sent up to the Legislative Council, which had very little interest and very little sympathy in all that they had done, and that they sent before them: they had been no party to the previous discussions; they knew nothing of how the matter had originated, or how it had been carried on; they had the choice of either taking very elaborate and difficult schemes and passing them off-hand, unable at the same time to waive any part of the responsibility, upon the mere credit of the report of the Law Commission, or of beginning the whole subject again *ab ovo*, and travelling over the same ground that had been travelled by the Law Commissioners before; for this latter course they had often neither time nor inclination, or if they had, having no guidance from the Law Commissioners to help them, generally speaking, they travelled by a different route and often arrived at quite a different conclusion; the consequence was, that partly owing to neglect, and partly to difference of opinion, the recommendations of the Law Commissioners remained mostly hung up, without being carried out, and I believe that the same thing would occur again if the Law Commission were re-established upon that footing. What, according to my view, seems to have been wanted, and to be wanted now, is that the Law Commissioners, or at least a part of them, should be incorporated into the Legislative Council, and should have the means of urging, advocating, and carrying forward their own measures in the Council; that they should take the Council with them before they begin to work out a plan; that they should carry the Council along with them during the whole discussion, to its conclusion, and then I believe that the Law Commission so constituted, with a good Legislative Council, which also would require some enlargement, might do a great deal of good, and would be very efficient; but at present I do not think the constitution of the Legislative Council by any means what it ought to be.

1942. What change would you suggest in the constitution of the Legislative Council?—The Legislative Council at present, as the Committee are probably aware, consists of the Executive Council, that is to say, the Governor-general, the Commander-in-chief, and three ordinary members of Council, and this, for legislative purposes, is strengthened by the fourth member; it is only the fourth member who is considered responsible for the legislation of the Council. The Governor-general of course has no time to attend to such details, nor the Commander-in-chief. The military member is by no means always fitted for this duty by previous pursuits; and the two civil members are rather disposed to remit such matters to the fourth member, whose special duty it is, and who has nothing else to do. The consequence of this has been, that everything has depended upon the character and qualifications of this one man. Things about which he has been eager and anxious, and well informed, have gone on and been carried out with sufficient rapidity; while things about which he has taken no interest, or about which he has not been sufficiently informed, have languished; and there has been nobody whose interest or business it has been to push them along. Hence there has been very great delay in the business of legislation in the Legislative Council, and it has been felt that as an instrument of legislation, it has fallen short of expectation. I have said that I would introduce a portion at least of the Law Commission into the Legislative Council. I think you might well introduce into it two members, one from Madras, and the other from Bombay, taken from what used to constitute the Law Commission. I think you might also have *ex officio* members, such as the Chief Judge of the Supreme Court, the judge of the Sudder Court, a member of the

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the Revenue Board, two or more of the secretaries to the Supreme Government, and so on, so as to have a body of 14 or 15 capable men representing different branches of the administration, and those branches from which in fact the legislation does in India chiefly emanate. Those men, knowing the wants of the country, would be able with the assistance of those under them employed in the Executive Administration, to point out good measures, they would be able to follow them up; they would see that they were carefully discussed in the Council, and they would carry out, as it were, each man for his own department the measures which he had taken up. And in the long run, I imagine that legislation conducted by such a council, especially if all the debates were oral, with merely the power of written protests or dissents, would be carried on in a much more satisfactory manner than it has been hitherto. I do not know whether I need go on to say, that I would not put natives upon such a council; I must say that as a body the natives are unfit to be placed upon any Legislative Council. There may be a rare case, and I know of such cases, of men who would be useful as members of such a council; but such men would by no means represent the natives; they would not even represent the natives of the country to which they nominally belong; still less would they represent the people of India, but rather the contrary. In proportion as they were fittest for the Legislative Council they would be unfit as representatives of their countrymen. Besides which they would be open to all kinds of solicitations and intrigue; and though I dare say there are men who might be selected, a few of them, who would be superior to all such solicitations, I believe that the character of the Council would on the whole suffer, and that its deliberations would not in any degree be improved by the admission of natives to the Council. You cannot suppose, for instance, that a native of Bengal, I may say of Calcutta to begin with, could be called a representative of natives of Bengal; certainly if he had been educated in Calcutta he would not, whatever else he might be. It would be probably from the natives of Bengal that the selection would mostly be made; but they would not at all represent the natives of the upper provinces, who would only look upon them not merely with jealousy but with contempt; and so with respect to other parts of the country. Even supposing there should be men fit for such a position, unless you can afford to have, and to pay for the services, natives qualified to represent the various nations and various castes and classes and interests of all the native subjects, the admission of one or two men who would really be peculiarities would, I verily believe, do more harm than good.

1943. Do I rightly understand you that the duties which were especially committed to the Law Commission would according to your plan devolve upon the Legislative Council, or would you separate the Law Commission and the Legislative Council?—No, I would leave the Legislative Council to manage that as it thought fit. It might divide itself into committees, or it might have executive subordinate officers to draft and frame laws in the first instance, and to do the drudgery of a Legislative Assembly. But I have no idea of a Law Commission under the Legislative Council which I have supposed.

1944. Would a body formed as you have suggested, for the Legislative Council, have such a knowledge of the habits and customs, and prejudices of the natives, as to be able to enact laws without native aid?—In one sense you may say that the laws at present are not enacted without native aid. The natives exercise considerable influence over all the legislation in India; but they exercise it in a manner which I imagine, in the present state of native information and civilization, is the only manner in which it is safe to allow them to exercise it. Scarcely any laws are passed without much previous correspondence with the administrative officers at the heads of the departments and in the interior. It is never the custom of those officers to give any opinions, and scarcely to form any opinions upon subjects relating to the natives, and their concerns, without largely consulting the natives; and that they do, generally speaking, in the ordinary manner in which it is safe and useful to consult the natives, namely, by selecting persons who to their knowledge are well informed, and talking to them in their own way and at their own times, and getting out of them their opinions in the only manner in which their opinions are to be got, namely, by that tact and management which can only be used by persons long accustomed to the natives and knowing them familiarly.

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familiarly. Hence it comes that almost every opinion that comes before the Legislative Council, and guides them in framing laws is tinged in a great measure, and very often entirely coloured, by native opinions. The natives, in this indirect manner, exercise a very large influence over legislative matters in India. In this way the Legislative Council is now to a great extent, and by the system which I have proposed would be still more, qualified to legislate for the natives without actually having any natives among them to appeal to, and I believe much better than if they had natives among them, unless they had a great many; for the reason I have mentioned, that not any one, or two, or three, or even half a dozen natives, would in any sufficient degree represent the opinions and feelings of the different classes of natives.

1945. Are the Committee to understand that you think that a Legislative Council, without a Law Commission, and without any natives amongst such Legislative Council, would be the body best adapted for framing laws for India? —Certainly.

1946. Would you retain the Legislative Member of Council, appointed as at present by the Crown?—I certainly would. I think a Legislative Member of Council, that is, a man both a lawyer and statesman, sent fresh from England, at mature age, and after some experience of things here, is not only of very great use, but is indispensable in such an assembly as that. I would add, however, with regard to the Legislative Member of Council (if he is called by that name), that I think it was a mistake not to give him the power of an Executive Member of Council. At present he is merely employed in legislative business, and has no voice or vote in executive matters; the consequence of which is, that he has not sufficient opportunity, which he otherwise would have, if executive matters passed under his eye, and he was obliged to form an opinion and to give a vote upon them, of learning the state of things in the country for which, so far as legislation is concerned, he must be always in a great measure answerable. He does not find out what is wanted, or how it is wanted; at all events, he does not find himself so well informed as could be wished of the state of things, for which remedies are required, or of the best means of applying those remedies. I think it would be an improvement in all respects if such a man had a voice in the Executive Government, both even for the Executive Government itself as well as for the Legislative Government.

1947. Does the fourth member of Council sit with the Council when it sits as an executive body?—He practically sits by sufferance of the Government in India and at home; but that has been two or three times, within my knowledge, questioned, and on one occasion (I believe it is a matter of history), that he was even requested to leave the room, which weakens his position in all respects.

1948. Mr. *Hume*.] Has he the papers sent to him which are circulated among the other members of the Council?—He has, quite recently, also by sufferance of the Government, the papers in one department only, the home department of the Government, sent to him in circulation. But it is very apparent that he cannot profit by the perusal of those papers sent to him merely as matters of curiosity, in the same manner as he would be obliged to profit by them if he found it necessary to master them with the view of giving an effective vote upon the matter to which they relate.

1949. Are not all the papers sent round to the Commander-in-chief, as well as to the other members of the Council?—They are sent to all the members of the Council.

1950. Are the Committee to understand that the papers only of one department are sent to the legal member?—Only of one department as a matter of right; that is, the legislative department; but by sufferance the papers of the home branch of the executive department are sent to the legal member.

1951. But as he has no vote, and is not called upon to give any opinion upon the subject, he does not master those papers, or profit by them, as he would do if he had to take a share in the decision?—I do not think he profits by them so much as he might do in that case.

1952. Sir *T. H. Maddock*.] When was that change made?—The change has gone backwards and forwards; it has been made and recalled more than once.

1953. When was the last change made by which now the fourth member of the Council has the papers in the Home Department?—The last change was made in the beginning of 1849, and it led to a discussion in which the right of the

the fourth member to see those papers was questioned. Upon the sending of the papers of the Home Department to him, being revived in 1849, the question was again raised, and very warmly discussed, and referred to England, as to whether it was right that the fourth member of the Council should see those papers; and whether, seeing them, he had a right to give an opinion upon them, not a vote. The discussion was terminated by instructions from home. *F. J. Halliday*, Esq. 27 March 1853.

1954. Mr. *Hume*.] What were the instructions from home upon the subject?—The instructions were that it was advisable and expedient that the fourth member should ordinarily sit and hear what was going on in the Home Department of the Government, and that he should use the papers, but that he should not give any opinion at all upon them unless requested to do so, as a special matter, by his colleagues.

1955. What occasion did you allude to, when you said that he was requested to leave the Council?—Upon one occasion Mr. Amos was requested to leave the Council, by Lord Ellenborough, soon after his taking charge of the Government.

1956. Was there any particular question under consideration at the time?—I was not present in the Council when it occurred, therefore I can merely say that such was the fact: I am stating it merely at second-hand.

1957. Sir *T. H. Maddock*.] You have mentioned that the natives do now exercise very considerable influence over the legislation of the country. Can you state any instances in which the natives have exercised any great influence over the legislation of Bengal?—No, I am not prepared to state any instance; what I said was, that in every case in which their interests were concerned, they appeared to me to exercise an influence over the legislation, or, at all events, that they had opportunities of exercising an influence.

1958. There was an Act passed in the year 1850, No. 21, which you will recollect; do you consider that the natives had any influence over the Legislature in the passing of that Act?—No; I think that was one of the cases where the native influence certainly had little or no effect; or rather, when the Act was passed contrary to the known general opinion of the natives.

1959. Mr. *Ellice*.] What was that Act?—It was what has been popularly called the "Liberty of Conscience Act;" it was an Act by which that portion of the Hindoo law which deprived a man of his ancestral inheritance if he changed his religion was abrogated.

1960. Sir *J. Hogg*.] Was not the Act to this effect, that no man should suffer the loss of his property on account of a change in his religious opinions?—Yes.

1961. Mr. *Ellice*.] Previously to the passing of that law was the property of any native of a particular religion in India changing his religion confiscated by the law?—It was forfeited.

1962. So that if he changed from the religion he had before professed, and became a Christian, his property became forfeited?—Or if he became a Mahomedan, or anything else; if he ceased to be a Hindoo he forfeited his ancestral property; he became, with regard to his ancestral property, as though he were not.

1963. Sir *R. H. Inglis*.] In other words, his property went to the next of kin?—Exactly.

1964. Sir *T. H. Maddock*.] I have received, for the purpose of its being presented to the House of Commons, a petition signed by 5,900 inhabitants of Bengal, Baha, and Orissa, containing the names of a great number of persons of wealth, rank, education, and intelligence, against that measure of the Government, from which I must conceive that, as you have stated, the natives had no influence whatever over the Government in passing that Act; would you therefore still persist in the opinion that a Council should be formed for the purpose of legislation, and that you would not admit natives to have any voice in the Council?—That case, to my mind, almost proves the necessity of keeping natives out of the Council; this is one of those exceptional cases in which it is desirable that native influence should not prevail, just as in the case when suttee was abolished, against which I believe that a much more numerously and respectably-signed petition was presented, and even legal measures were taken by bringing it before the Privy Council, in order to cause the law to be abrogated. There will, in such a state of society as that of India, arise cases in

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in which it is absolutely necessary to go *bonâ fide* contrary to the Hindoo and Mahomedan law, as has always been done, where those laws are contrary to simple justice and humanity. In this instance it is not denied, but rather plainly stated, that this is legislating directly in the teeth of Hindoo law; but the Hindoo law, in that particular, was monstrous, and ought to be abrogated; of course the Hindoos, as a body, disapprove of the abrogation of such a law, but that disapproval, if my view of the case be correct, makes for nothing against this measure itself, but rather the contrary.

1965. Do you consider the Legislature were authorised to pass such an Act, notwithstanding that the Act of Parliament which gave them legislative power states that due regard shall be had to the distinctions of caste, difference of religion, and to the manners and opinions prevailing among the different races in different parts of the territory?—I think so; because if they had continued such a custom, or such a law as that, they would have had an undue regard to those prejudices and those laws.

1966. In future what process would you suggest by which the opinions of the natives should be gathered before you proceed to pass laws, in order that some regard should be had to their opinions in passing laws?—I have already said that the opinion of the natives is usually gathered, and I have explained the method in which, according to my experience, it is gathered, before passing new laws. With regard to the particular law which has been mentioned, I have no doubt at all that the opinion of the natives was very well known when it was passed; that there was no defect in that respect; there was no want of knowledge of the opinions of the natives: but there was a deliberate going contrary to it, for what was thought a right purpose and object.

1967. Was that not a departure from what you understand to be the principle upon which the British Government have ruled in India?—I think not; I am not aware of any principle which would render it incumbent upon the British Government to refrain from abrogating laws which are contrary to its notions of justice and humanity.

1968. Do you not consider that the Government was pledged, from the time of Lord Cornwallis's regulations, in the different Acts of Parliament which have been passed for the regulation of the Government of India, to maintain the people of India in the enjoyment of their rites and laws?—So far as those rites and laws were, in their deliberate judgment, fit to be upheld, but no further: there was no pledge that any absurdity or monstrosity of the Hindoo or Mahomedan law should be upheld, but, on the contrary, wherever they have been found, they have been abrogated without any scruple, both before the abolition of suttee and since.

1969. Do you consider it anything monstrous that, according to the Hindoo law, the descent of ancestral property should be confined to persons of the Hindoo faith?—I do not consider it monstrous, according to the Hindoo law, looking at it as a Hindoo; but looking at it as a person not a Hindoo, it seems to me to be a great outrage upon the right of private judgment and simple justice in all such matters, and a thing which ought to have been abrogated before it was, and which, in fact, was abrogated long before that, 18 years before the law of 1850, to which allusion has been made, without any objection being made by the very persons who are now objecting to this law. A law to the same effect was passed 18 years ago, and the people, until this moment, until an example was set them by Madras, never thought of crying out against it.

1970. Was that law, which was made 18 years ago, ever brought into force in any single instance?—Not to my knowledge; because not then, or since, in Bengal, has any actual case arisen calling for the application of the law; nor is such a case likely to arise, except in very rare instances, for many years to come.

1971. At the time of the passing of that law, 18 years ago, when Lord William Bentinck was Governor-General of India, were any means taken to make the people of Bengal acquainted with the nature of the provisions of the law before it was passed?—I am not aware what was done 18 years ago, but I know for certain that the natives of Bengal have been very well acquainted with the law for 18 years; what they knew of its probable coming before it was passed, I cannot say.

1972. Are you aware that in their memorials, from the commencement, they have

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have stated that they were entirely ignorant of the tenor and tendency of the law passed in the time of Lord William Bentinck, or that they would have protested against it?—I cannot for a moment believe that that can be generally true. At all events, I know for certain that one of the principal movers in this petition from Bengal, if his name be not actually appended to it, was the well-known Prosonno Coomar Tagore. He was for many years the Company's vakeel (which answers to attorney-general) at the Sudder Court, and is perhaps better informed of statute law, that of India, than almost any other man of my acquaintance. It is quite notorious that he is at the bottom of the whole of this movement, though he is no Hindoo himself, and openly laughs at everything belonging to Hindooism, and though he has been thoroughly acquainted with that and every other law, not for the last 18 years only, but for the last twice 18 years.

1973. Mr. *Mangles.*] What is your opinion of the law passed in Lord Wellesley's time, by which a Hindoo custom was interfered with by prohibiting the throwing children to the sharks and alligators at Saugur?—That very thing was in my mind when I said that other laws abrogating practices enjoined by the Hindoo religion had been passed both before and after the abolition of suttees; but I mentioned suttees as more familiar, in the present day, to English ears. That of course was a law which, in the present day, after the present method of getting up memorials in Calcutta on these occasions, would no doubt itself have been appealed against. It was a law, as far as I knew, of precisely the same character as the one now under discussion, and open to precisely the same objections, namely, that it was directly contrary to the Hindoo law, as affecting certain tribes and classes.

1974. Sir *T. H. Maddock.*] You have alluded to the mediocrity if not the absolute incompetency of some of those officers holding high situations as zillah judges; had all the perons who were liable to imputations of that nature been removed from the situation of zillah and session judge previously to your return home?—No, I cannot say that all had, but they were in process of being weeded out.

1975. Are there any such persons now judges of the Sudder Dewanny Adawlut?—No, not such persons as I have in my mind; there may be persons whom I might wish to replace by better, but not such persons as I now allude to.

1976. Has there not been considerable unpopularity amongst members of the service caused by interference with the seniority system?—No doubt it has been distasteful to a number of the service.

1977. So that it was rendered difficult for the Governor of Bengal to select for those situations those officers whom he, on his own judgment, would have approved?—Precisely.

1978. You have suggested that juries should be made use of in the administration of justice; do you propose that those jurymen should be paid?—No, I do not.

1979. Do you propose that the judge should be compelled to empannel a jury, or only that he should be empowered to do so at his discretion?—That he should be compelled.

1980. You have proposed to introduce the appointment of an English judge to preside in the Sudder Dewanny Court; if one were so appointed, do you consider that it would be necessary to maintain also a distinct Supreme Court?—No, I have in view the abandonment of the Supreme Court and the creation of another jurisdiction for Calcutta; but that opens a subject with which I am less acquainted than other witnesses.

1981. The salary of the session judge being 30,000 rupees a year, that is 3,000 *l.*, can you state, for the information of the Committee, what is the average amount of the emoluments of a barrister in the Supreme Court of Calcutta?—They would be considerably greater than that.

Veneris, 18° *die Martii*, 1853.

MEMBERS PRESENT:

Mr. Baring.	Mr. Spooner.
Sir James W. Hogg.	Mr. Vernon Smith.
Sir T. H. Maddock.	Mr. Hume.
Sir Charles Wood.	Mr. Edward Ellice.
Mr. R. H. Clive.	Sir George Grey.
Mr. Elliot.	Mr. Lowe.
Mr. John FitzGerald.	Mr. Baillie.
Mr. Labouchere.	Mr. Cobden.
Sir R. H. Inglis.	Mr. Hardinge.
Mr. Mangles.	Lord Stanley.
Mr. Cardwell.	

THOMAS BARING, Esq. in the Chair.

Fredrick James Halliday, Esq., called in; and further Examined.

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1982. Sir *C. Wood*.] IN your evidence yesterday, you suggested the possibility of a union of the Supreme Court with the Sudder Court; will you have the goodness to state to the Committee what your views are upon that point?—I have not formed in my own mind any distinct idea as to the use of such an amalgamation, with regard to that class of litigation which now goes on in the Supreme Court: what I had in my mind was that with which I am most familiar, the litigation which now goes on in the Sudder Court; that I thought would be very much benefited, the litigation of the country being benefited too, and the whole judicial system improved, by the introduction of a more regular system, if at the head of the Sudder Court permanently there were an English judge. I have in my mind a notion of the possibility of transferring the litigation of the Supreme Court to the Sudder Court so constituted, having a subordinate civil court for Calcutta itself there, to administer the English law, in the same manner as the Supreme Court does now in Calcutta.

1983. Are the Committee to understand that your object would be to create the highest court of appeal partly of the judges who are now appointed to the Sudder Court, with the addition of an English judge?—My idea was that there might be a supreme court of appeal for the whole presidency of Bengal, including the Court of Calcutta, whatever that might be called, constituted as I have supposed, namely, by an English judge as president or chief of the court, and as many civil servants of the Company, puisne judges of the court, as might be found requisite; also, as I added, by the addition of one carefully selected and sufficiently paid native. My idea certainly is that such a court might with advantage hear appeals from all the courts in the presidency in which it might be placed, including, of course, courts administering the English law, as well as the courts administering the law of the Company's government.

1984. I presume you would propose to have a civil court in each of the other presidencies?—Undoubtedly that was my idea; but I wish generally to be understood as speaking rather of the presidency with which I am familiar than of any other; though I may have my own opinion as to the applicability of any of my suggestions to the other presidencies of which I know less.

1985. You conceive that the result would be an improvement in the administration of justice in India, so far as that can be effected by the establishment of a court of appeal of a higher description?—I think so; I think it would bring into harmony the administration of the two systems. I think, probably, the technical habits of the English judge would be corrected by the more Indian system and habits of his colleagues; and on the other hand the looser notions of the Indian judges would receive very advantageous correction from the more regular education and legal turn of mind of the English judge; and in

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in that way the judicial administration of the country would gradually receive very important improvements. The chief judge of the Supreme Court being generally responsible, together with his colleagues, for the management of the whole.

1986. In that court you would also place a carefully selected native judge?—I would.

1987. Sir *J. Hogg.*] Is it your opinion that a court so constituted, of an English judge and some of the superior judges in the Company's service, should be a court of final appeal?—I certainly think the appeal to the Privy Council is of no real advantage to the administration of justice in India.

1988. It is your opinion that there should be in India a court of final appeal?—It is my opinion.

1989. What is the law now administered in the Mofussil in the Company's courts, both civil and criminal?—In civil cases the law is the law of the parties, the Mahomedan law, or the Hindoo law, or the law of the Parsees or Armenians, as the case may be, modified and in the matter of procedure altogether guided by the Company's Acts and Regulations; their statute law in fact.

1990. The law of the defendant?—The law of the defendant where they differ; in criminal cases the law of procedure is also that of the Company's statutes, and the substantive law is the Mahomedan law very much altered and amended by the Company's regulations, so that though nominally Mahomedan, it has, in fact, little or nothing peculiar to Mahomedanism left in it, but is a very fair and sensible criminal code applicable to practical purposes, in the administration of which no real difficulty has yet been found.

1991. Was not a criminal or penal code prepared by Mr. Macaulay during the time he was Legislative Member of the Council?—By the Law Commission during Mr. Macaulay's tenure of office as Member of the Council and President of the Law Commission.

1992. When that code was prepared by the Law Commission, its consideration was referred to the principal legal authorities, both in Her Majesty's courts, and in the Company's courts, was it not?—It was.

1993. And to those authorities at the different presidencies?—Yes.

1994. Although that code was prepared by the application of the greatest talent and the greatest learning, was not there a great diversity of opinion as to the safety of introducing it at once as prepared?—There was a great diversity of opinion as to the practicability of introducing it precisely as prepared by the Law Commissioners, a diversity of opinion which I believe still exists.

1995. Practically, was not the result of all the references that the code underwent such changes as that it could scarcely be said to have preserved its identity?—So far as the thing has hitherto gone, the result of the revision which has been given to the code has been to change its appearance altogether, so that it is scarcely to be recognised as the code presented by the Law Commissioners in Mr. Macaulay's time, and it has even acquired popularly another name, being now called the Bethune Code.

1996. Those revisions took place by the different Law Commissioners, did not they?—I can hardly say that. The comments and remarks of the various authorities upon the code were submitted to the Law Commissioners, who digested them, and re-submitted them to the Government, with their own observations, and with certain suggestions for the improvement of the code, arising out of those commentaries; but the revison and change in point of form and character, of which I have been speaking, which has given the code the name of the Bethune Code, was not made by the Law Commission at all, but by the Legislative Council of India during the time that Mr. Bethune was a member of it.

1997. It would of course be very desirable to have both the civil and criminal law of India reduced to a code, either as it is or with amendments?—No doubt, so far as codification is practicable in the circumstances of the country.

1998. Are there as good indices and abridgments of the Company's regulations, as there are of the statute law at home?—There are very complete digests and abridgments, and indices. There is no difficulty in putting your hand upon any part of the Company's law, or even upon any of the constructions of the law which have been from time to time given in the different courts. They have been very fully digested, so that reference to them is one of the easiest things in the world.

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1999. However desirable improvement would be, is it your opinion that the law, civil and criminal, now in existence in the Company's territories if fairly administered, is a law which affords substantial justice to the people of India?—Undoubtedly; if well administered, it is capable of affording substantial justice to the people, and it does afford it when so administered.

2000. Admitting, as in a great system you must, extensive exceptions, is it your opinion that substantial justice, civil and military, is now practically administered to the people of India?—Subject to the limitations and exceptions of which I have spoken in other parts of my evidence, I must answer that question undoubtedly in the affirmative; substantial justice, I think, is administered.

2001. Mr. *Ellice*.] Is the impression upon the minds of the natives of India generally, that the law as it is, is impartially and honestly administered by the authorities who administer it?—Speaking of the native courts, that is to say, the courts presided over by natives, without desiring to attribute to them faults, I must say that at present, owing to the long experience of the natives of the corruptibility of their own countrymen, and their great want of confidence in them as compared with the confidence they have acquired in the Europeans, there is not generally in the minds of the natives such a complete reliance upon the impartiality and incorruptibility of the courts under native judges as could be wished; but I believe it will grow up in the course of time, especially as the courts themselves, within my observation and knowledge, have manifestly improved in regard to integrity and trustworthiness, and as the natives see and know them to improve, their suspicions of course will be lulled, and they will gradually acquire in them the same confidence that they have in the courts presided over by Englishmen.

2002. Have they complete confidence in the administration of justice in those courts by the English judges?—As far as regards the integrity of the judges their confidence is complete; they have little or no notion of the possibility of corrupting an English judge; it scarcely ever enters into their imagination; they may, perhaps, have sometimes a different opinion as to the acuteness and intelligence of some of the judges, and I dare say that, as compared with the acuteness and intelligence of the native judges, those qualities in the English judges are often in the minds of the natives at fault; but in the integrity and in the honest and earnest desire to do justice impartially between man and man of the English judges, the natives have the highest possible confidence.

2003. Mr. *Hume*.] Can you state, looking to the whole judicial system in Bengal, what is the proportion of cases tried by those native courts as to which you state the opinion is not so favourable?—In matters of figures I would rather refer to a memorandum which I have here. These were the suits instituted in 1850, in the several classes of courts, independently of appeals, and comprising original suits only; before English judges 93: before the principal sudder amins 546, those are chiefly natives; before the sudder amins, also chiefly natives, 1,670; before moonsifs, almost all natives, 84,081.

2004. Sir *J. Hogg*.] With respect to the court of appeal which you spoke of constituting at Calcutta, would not you so constitute that court as to be a court of appeal from all the courts in all the presidencies in India?—It certainly did not enter into my ideas that a court in Calcutta could well be constituted a court of appeal from the whole of India; I think that would be an attempt at too much centralization, and that the conduct of appeals in Calcutta from Madras and Bombay and the interior of those presidencies, would be a matter of very great difficulty; even more so now-a-days than if the appeal were to England.

2005. Mr. *Hume*.] Will you state your reasons for that opinion?—My reasons are, simply, the immense distance and the difference of nationality; for an inhabitant of Bombay to come to Calcutta differs very little from an inhabitant of Bombay coming to England.

2006. Sir *J. Hogg*.] The parties do not personally attend upon appeal?—They do not, but they require to know something of the place and the people where the appeal is carried on; they must have agents, and it is well that they should have, which they largely use, the power of attending if they desire it. It is a fact that the parties do frequently attend in Calcutta before the Sudder Court to look after their own appeals from the interior; and it is quite obvious that a court of appeal, situated where the parties can watch its proceedings, instead of being situated at an unattainable distance, must be much more popular

popular and acceptable, and much more advantageous to the people and to the administration of justice. *F. J. Halliday*, Esq.

2007. Is it your opinion that the necessity for legislation should be considered, and that legislation for India should take place in India or in this country?—In India, undoubtedly; I speak of the act of Legislation. 18 March 1853.

2008. The question refers not only to the act of Legislation but the necessity for legislative measures?—Undoubtedly, laws should be originated, and discussed, and digested, and matured, and passed in India.

2009. And the necessity for laws, or the occasion of enacting them, considered in India?—Yes; it is possible to imagine exceptions, but they do not immediately occur to me.

2010. I collect from you that it is your opinion that the Legislative Council, extended as you suggest, would be fully competent to consider and to enact all the laws and all the improvements in the existing laws requisite for the good government of India?—Undoubtedly.

2011. Mr. *Hume*.] Do you say so, abiding by the opinion you have formerly given, that it would not be proper for natives to form any part of that Council?—Yes.

2012. You stated in your evidence that you visited Ceylon, and had an opportunity of inquiring into the state of the Government there; did you ascertain how far the natives, Cingalese and others, were admitted as members of the Government and of the different institutions there?—I said nothing about having inquired into the nature of the Government; I spoke of inquiring into the administration of justice in the courts there; I know nothing worth speaking about of the nature and circumstances of the Government of Ceylon.

2013. You stated that members of the Legislature in India, there being no natives in the Legislature, could obtain information by reference to natives out of the Council?—They can and do very largely; I do not mean that the members of the Legislature themselves largely consult the natives; they do not do so.

2014. By what means does the Legislative Council become aware of the feelings and opinions of the natives?—The members of the Legislative Council as at present constituted, at least an important portion of them, have passed through important offices in the country, and they have passed their lives, in fact, in that way. By that means they have had many opportunities of knowing the feelings of the natives upon public questions. They do not debar themselves from consulting the natives personally, far from it, though they do not largely exercise that privilege; but they have the means, as I explained before, of acquiring a knowledge of the minds of the natives upon any point upon which they wish for information, through their subordinate officers, the executive administrators in the interior; and they always do so by correspondence, before passing any important law.

2015. Do you consider it preferable, in matters of legislation, that those who are to legislate should receive information from subordinate officers instead of applying directly to the natives, who must be best qualified themselves to give it?—Speaking as of an abstract question, of course direct information is better than indirect; and it is always better to obtain information at first hand than at second hand; I speak of the practicability of doing the one or the other, and I have endeavoured to explain that in my opinion it is impracticable at present for the Council to obtain the opinions of the natives on legislative matters at first hand, and that they can only do it with safety, if at all, at second hand.

2016. In what way is it impracticable, seeing that the Council can ascertain who are the best informed of the natives, both Hindoos and Mussulmen?—Suppose, for example, a question such as was actually pending when I left India arises, a measure for irrigation and for improving the land revenue of Bombay. The opinions of the natives, regarding that question would be the opinions of the agriculturists of the Bombay districts; it does not occur to me how it is possible for the Legislative Council, sitting in Calcutta, or even if it sat at Bombay, to obtain personally the opinions of the agriculturists of the Deccan upon the working of a legislative measure of that description. That is merely an instance of what constantly occurs.

2017. Suppose a Hindooor a Musselman were a member of the Legislative Council, would not he be the best medium through which information should be

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be communicated to the Council from the class of persons in the country whom you speak of; would not that be better than leaving the Council without any certain channel of communication?—I think almost any man experienced in India would say that you could not have a more dangerous or a more fallible method of obtaining the opinions of any class of the natives than by selecting and exalting one member of that class and constituting him the sole means of communication with his fellows.

2018. What would be the danger?—The danger would be, first, that the mere exaltation of one man, even if he had in all things an honest purpose, which he might probably not have, and which certainly would never be imputed to him by his fellows, would create great jealousy; there would be great division and separation arising out of the mere fact of his elevation, and there would be little feeling in common between him and the mass of his class, or in fact any, except a very small clique, or perhaps a small family depending upon him, and this difference and separation would increase the longer he remained in a situation of power; besides that, it is almost impossible to conceive of any one native, Mahomedan or Hindoo, capable of representing the opinions of any large or influential class: the Mahomedan, for example, if selected in Calcutta might, by a great stretch, be supposed to represent honestly and fairly, and to the satisfaction of those who are under him, for that is the important matter, the opinions of the Mahomedans of Calcutta, or even of Bengal; but I have no hesitation in saying that he would not even do that; even, however, if he did, that he would be very far from being a representative of the opinions of the Mahomedans anywhere but in Bengal, he would know very little about them; he would differ from them in even matters of religion, and upon questions which excite the most violent animosity and hatred, far surpassing any supposed animosity which exists between Mahomedans and Christians; so that unless you aim at a system of representation which shall give you a native from almost every class, caste, and tribe, and from every division and district of the country, you could never obtain in the manner supposed by the question anything like a safe guide to the opinions of the natives from natives sitting themselves in the Council.

2019. Do you consider that the natives in general would feel any jealousy in seeing one of their countrymen placed in a situation where he might offer an opinion on laws which were about to be passed affecting their liberties and their property?—I am sorry to say that there is a very strong tendency amongst the natives to regard with unappeasable jealousy, amounting to animosity, any member of their own class raised above themselves, especially among the natives of Bengal, with whom I am most familiar. I will give a recent instance of it, which was very well known in Calcutta at the time I left. Lord Dalhousie took what was considered one of the boldest steps towards the advancement of the natives which had been taken for many years, namely, the careful selection and appointment of one of the very best of them; a man against whom his fellows could not possibly utter one word of accusation or reproach. He was a Hindoo of high caste and high family, who had borne an irreproachable and unreproached name in the public service for many years. This man, Lord Dalhousie, very much to the annoyance of a great number of English claimants, and particularly to the annoyance of the English bar, who were candidates at the same time for the office of which I am about to speak, appointed as stipendiary magistrate of Calcutta. He had on that occasion to sustain, not only the very loudly expressed anger of the English claimants, but the still more loudly expressed annoyance of the natives; and the natives exhibited in so many ways their jealousy and dissatisfaction with this appointment, arising simply out of the fact of this man being placed over their heads, that he repeatedly came to me, and to other friends, to complain of the bitterness of his position, and the pain and misery which had been brought upon him by the constant attacks, public and private, and the annoying petty jealousy which he had experienced from his countrymen in consequence of his elevation. I believe that is merely an instance of what is apt to occur, in Bengal at all events, and I am afraid in other parts of India, whenever anything of the kind is done. I wish to guard myself from being supposed to say that that is regarded as a reason for not elevating the natives. The contrary is shown by that very case in which such elevation was made, though it was well known beforehand what would be the consequence.

2020. You are aware that there is no comparison between a seat in the Council, where mere advice would be given, and a seat on the Bench, where the man becomes a criminal judge?—The greater the elevation, the greater the jealousy, in my opinion. *F. J. Halliday*, Esq. 18 March 1853.

2021. You mentioned before that you considered it objectionable to place a native in power in the Council; what power would he have further than the right of advising as one of a dozen members of whom the Council might consist?—I do not think I ever stated that it was objectionable to place a native in the Council; what I did say was, that I did not think you could in that way obtain any fair representation of the opinions of the people, and that it was better obtained in other ways at present.

2021*. Suppose it were determined to place in the Council a Hindoo from the lower provinces, one from the Benares district, and one from the Western district, the number of the Council being increased to admit of that proportion, would your objection stand as strong to the representation of those different districts as it now stands to the admission of a single native from Bengal alone?—I repeat, that a Hindoo from Bengal would not represent the opinions, nor could you gain safely from him the opinions of the Hindoos of Bengal. The most you could do would be to obtain from him the opinions of his particular class or party. The parties in Bengal are split into very small and curious divisions, and they quarrel violently one with the other. Perhaps the representative from Benares, if a learned Brahmin, might represent the pundits of that part of the country, but he would represent nothing else; and so on of all the districts.

2022. Are the Committee to understand that a representation by natives of the wishes of the Hindoos generally is not practicable?—It is not practicable in the manner to which I understood the question to allude.

2023. As regards Mussulmans, do you consider, looking to the large proportion of the Mussulman population in the country now under the Company's government, that a Mussulman of high rank and good attainments might not, with advantage, be appointed as a member of the Legislative Council, seeing that the duty of that Council is to pass laws for the whole of India?—I see the same reasons against it that I have explained in the case of the Hindoos; the case differs very little; Mahomedans are almost as much divided. A Mahomedan gentleman in the upper provinces looks with the greatest contempt upon a Mahomedan of the Bengal provinces, and so of other parts; besides that you have divisions in matters of religion and tribe among the Mahomedans to almost as great an extent as the divisions among the Hindoos.

2024. Mr. *Lowe*.] You have told the Committee, and it is a very gratifying thing to hear, that the natives never think of the possibility of corrupting an English judge?—Scarcely ever.

2025. You are aware that it is on record, by the Governor in Council at Bombay, that there is a very prevalent belief in the corruptibility of English political officials, and we have a paper before us in which an attempt to eradicate that belief is treated as absolutely Quixotic: how can you account for that difference in the estimation of the native of the two services?—In the first place I do not speak of Bombay at all; I speak of that part of the country which I know myself, and where I believe there is as little notion of corrupting political officers as judicial officers. I can quite understand that carelessness and indiscretion, without any real corruption, on the part of political officers, may very soon induce the notion of their corruptibility; besides which there is this important difference, the judicial officers are placed among our own people, and are constantly dealing with them, and our own people, by long experience, have formed their own opinion, upon good grounds, of the nature of their character, but the political officers are placed in foreign territories.

2026. Mr. Macaulay's penal code was finished in 1837, was not it?—In 1838.

2027. The alterations which have been spoken of and the comments upon it were in 1848?—The last revision of it was in 1848, but the comments run over the whole period between those two years.

2028. The revision was in 1848?—Yes.

2029. Will you tell the Committee what was done in the intervening 10 years?—I do not think I know very well what was done, except what I have stated, that the comments of the various officers consulted, were referred to the Law Commission, and were by them digested and resubmitted to the

Government,

F. J. Halliday, Esq. Government, with additional remarks, and suggestions, and amendments of their own.

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2030. I understood you to say that the Law Commission failed in what was anticipated of it, not so much from its own fault as from the want of time and aptitude on the part of the Legislature of India to deal with the questions which were submitted to them?—Not wholly from want of time and aptitude, but from want of a harmony between the body who framed the laws, and the bodies who were to pass them, involving no doubt some want of aptitude and some want of time.

2031. You are of opinion that the Legislative Council, framed as you propose, would be able to deal with such questions, as the Law Commission might bring before it?—If constituted as I propose.

2032. That is, with a member from each presidency, and a judge of the Supreme Court?—A judge of the Supreme Court, a judge of the Sudder Court, members of the Revenue Board, certain secretaries to the government, and a legal member selected in England; that is to say, the present fourth ordinary member of Council.

2033. Do you think such a body would have leisure from its other occupations, most of its members being otherwise employed, to attend to any complicated questions, such as are involved in a code for all India?—I think they would. The truth of the matter is, that legislation in India very generally emanates from, and is originally prepared by, those very men whom I propose to introduce into the Legislative Council. It is the fact that the present laws regarding the revenue department are mostly prepared, and even drafted, in the Board of Revenue. What I desire is, that some member of this or that Board who knows what is wanted, and who has the chief hand, even now, in drafting the laws for the consideration of the Legislative Council, should not see a law shelved, as he does now, for want of some one to look after it, but should be there to look after it himself.

2034. With regard to the union of the Sudder and Supreme Courts of India, do you propose that the amalgamated court should administer, as the highest court of appeal, all the different laws now existing in India?—Certainly.

2035. Do you think that it would be a competent tribunal for such a purpose?—The Sudder Court now does administer all the laws prevailing in India, except the English law.

2036. Taking it as a court to administer English law, would it be a satisfactory tribunal to decide difficult questions of English law?—I would rather that that question was answered by a person conversant with the English law.

2037. Was not the system which you described, by which justice was administered according to the law of the defendant, a system fraught with great evils and uncertainties; take the case of the Armenians for instance?—I am well aware of the difficulties which are alluded to; they have been pointed out in the report by the Law Commission upon what was called the *Lex Loci* Act; they are there stated much more learnedly and forcibly than I can state them; they do no doubt exist.

2038. You agree with the report?—I do.

2039. Taking such a question as the *lex loci*, do you think the Legislature, framed as you contemplate, would be able to deal with that question?—Yes; and it would have settled it by this time.

2040. With regard to the education of judicial officers, are the Committee to understand you to say that you do not propose any division of the service, but you would still keep the revenue and judicial branches together?—Yes.

2041. How do you propose that a person who is to serve in the judicial office, shall obtain a knowledge of the law, and the rules of evidence?—I have proposed that before he enters the service at all, he shall devote more time, and devote it more effectually than is now done, to the acquiring a knowledge of law; and I have also proposed that the office of registrar, or assistant judge, should be revived, in which, I suppose, an opportunity would be afforded of going on from the knowledge which the judge had acquired up to that time to still further attainments; I am not supposing that the system I propose is a perfect one, but it is the best that the circumstances admit of.

2042. You would propose that all persons going into the East India Company's service should acquire that knowledge of the law which you deem sufficient

sufficient to qualify a man to be a judge, with the practice of the duties of registrar superadded?—I think there would be no harm in it. *F. J. Halliday*, Esq.

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2043. Would not there be this harm, that a man who did not know whether he would ever want this particular knowledge, the law being a dry and repulsive subject, would be very likely not to give that attention to it which he would do if he knew he was going to practise in that particular department afterwards? —According to my plan none but a very small section of the service, that section, for example, devoted to diplomatic duties, and duties of that kind, would be in any such situation as not to require a knowledge of the law; they must serve in some judicial office; therefore, all that can be said is, that you might allow persons who did not choose to qualify themselves in the manner proposed for the judicial office if there were such, to waive it altogether and serve in other branches; but they would cut themselves off from so much that it is not likely that many would take advantage of such a permission.

2044. How would you guard against that which is so loudly complained of now, that the judicial office is made a kind of cushion for people to repose on who are not fit for very efficient service in other offices?—I have stated that, particularly as regards Bengal, I do not admit that to be the case, but wherever it occurs it is a defect and mischief arising from mal-administration. You must trust to such incitements to a good administration of the government as you can invent or apply to ensure good administration, instead of mal-administration.

2044.* Do not you think that it is inherent in the system of mixing up executive and judicial duties in the same service, that the immediate interest of the Government being more concerned with the performance of executive than of judicial duties, the Government may postpone one to the other, and rather seek out the ablest men for the executive than for the judicial departments, so that the system will necessarily work to deteriorate the judicial service?—That appears to me to be a supposition more plausible than true. The Government is only in a very low sense chiefly concerned with the collection of the revenue, rather than with the sound administration of justice; and such a Government as we are likely, I hope, usually to have in India, would have great pride, and therefore a great interest, a motive perhaps even greater there than anything else, to obtain credit for the effective administration of justice; so that I think, on the whole, the objection would not usually exist, or need not exist.

2045. A large number of the gentlemen now serving in judicial appointments have served the office of registrar, have not they?—No, I think very few; I think I myself was one of the latest who served as registrar.

2046. Your opinion is, that the abolition of that office has tended to lower the standard of qualification, that those who came to the judicial seat without having served that office would be worse judges than those who had served it? —I must say that things have been cutting both ways; on the one hand, the abolition of the registrarship no doubt, *pro tanto*, has diminished the efficiency of the judges at the time they came to the Bench, but on the other hand, before that it was not usual for the judges to pass through the revenue department, and evils were found to arise out of that system; so that though you have lost by the abolition of the registrarship on the one hand, you have gained by passing your judges through the revenue department on the other.

2047. You stated, on a former day, that serving in the office of a collector, who had really *quasi* judicial functions to perform, was a good preparation for serving on the judicial bench; does a collector, in the administration of his functions, have recourse to any regularity of proceeding or practice, or is it all done in the sort of off-hand way in which people transact ordinary business. Does he call the people regularly before him?—It is quite as regular, perhaps even more regular, than the administation of justice in a summary small cause court. He calls the parties before him; he has even their vakeels or advocates; he has the witnesses regularly summoned and examined before the parties; he refers to the documents; he draws up written decisions, and all he does is subject to a very strict and prompt appeal; besides that there is either an understood or an expressed form and mode of procedure in the collectors' offices in the revenue department, to which all the collectors endeavour to conform themselves.

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2048. Supposing the Government were not to adopt your suggestion, but were to set apart a number of writers or persons going to India for the judicial service, to keep them in England for a year or two longer, under some regular legal instruction, were then to send them out to acquire languages in India, then to let them go through a certain training in the Collector's Office as you suggest, and then to place them in the office of registrar, would not that be a more efficient system for making them good judges than the one you recommend?—That is almost the same as the one I recommend.

2049. The person in that case would know, while he was in England, that he was to be a judge?—You would have this great difficulty; after all, educate them as you will, you would find some persons not qualified for executing judicial duties when you came to try them. You would perplex your own administration without doing any real good.

2050. Would not it be a great good to have grounded those men in the principles of law?—I have expressly said that I wish all men destined for the civil service to be grounded in the principles of law. I think it would be a great good.

2051. You think they would acquire that without having necessarily the prospect of ever being so employed?—I endeavoured to explain that the greater part of them, according to my plan, would know that of necessity they must pass through the judicial office; but you might allow persons to avoid serving in a judicial office if they thought fit not to pass through the necessary course of instruction, only they would thereby cut themselves off from so many advantages, that it is not likely they would claim the indulgence.

2052. You contemplate that the judicial office should not be the ultimate result, but a stepping-stone to some other office?—Yes.

2053. Sir *R. H. Inglis*.] You spoke strongly in the early part of your examination as to the confidence that the natives entertain in the integrity and incorruptibility of the English judges; will you be pleased to state to the Committee whether such an opinion be founded upon negative evidence; that is, on the absence of complaint, or upon direct personal communication between yourself and them, as to such their confidence?—Both. Actual complaints of corruption against Europeans are extremely rare, and I know from constant intercourse with the natives, from the very commencement of my service in India, down to a very recent period, that they look upon the incorruptibility of an Englishman, his truthfulness, and integrity generally as something quite by itself.

2054. Is there any difficulty on the part of any native in making a complaint, either publicly through the press, or officially to any authority, with respect to corruption which he may allege to exist on the part of any official person?—Not the smallest.

2055. Are there public meetings held frequently, in which any native might express any complaint?—There is no interference with any holding of public meetings, where natives or any other persons may desire to assemble; the natives may communicate with the press either openly or secretly, and they may lodge any accusation they choose against a public officer before the constituted tribunals, and it is immediately taken notice of. The fact is, as regards the service generally, there is a great jealousy among its members of their character for integrity and incorruptibility, and so far from shielding one another, they are rather apt to fall like wolves upon any man who lowers the character of the service by bringing accusations upon himself; he is certain not to escape.

2056. Mr. *Cobden*.] I understood you to say that there were two objections in your mind to the natives becoming members of the Legislative Council; first, that they were not fitted for the post, and next that they would not have the confidence of their fellow countrymen?—I said nothing about their not being fitted; it is my opinion that fitness for the Legislative Council among the natives is a very rare thing: not absolutely that it does not exist; I do know persons who are quite as fit, or nearly so, to sit in the Legislative Council as any Englishman of my acquaintance.

2057. Is the difficulty an intellectual or a moral one, by which they are incapacitated for such a high and responsible office?—I have in my mind both difficulties, but chiefly the intellectual difficulty; they are not sufficiently instructed; the truth of the matter is that, with very rare exceptions, which are mostly produced by ourselves, the natives are still in the same state of ignorance,

ignorance, and I fear I may say corruption, at all events, low state of civilisation, in which we found them.

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2058. I understood you to say, in your former examination, that you thought the natives, if appointed to the office of legislative councillors, would be open to the influence of intriguers, and other impure influences?—Undoubtedly.

2059. Your main difficulty is a moral one in that respect?—In that respect it is; I have a moral difficulty as well as an intellectual difficulty, but my chief difficulty is the intellectual one.

2060. Has that moral difficulty been found an insuperable bar to natives filling the office of judge?—For many years it was, if not an insuperable bar, felt to be a very great difficulty and hinderance in our path; we are only now beginning to hope we are overcoming it. By constant perseverance in the best means we can think of, some of which have yet to be applied, such as giving a still higher inducement to good conduct, we have succeeded in improving the moral character of those natives whom we have taken in hand from the commencement, and trained almost through life for judicial employment in our service, but it has been very up-hill work: it is thought by many to have been only partially successful, and it requires the greatest possible care and observation, and must do so for some time to come.

2061. In the first appointment of natives to the office of a judge, having a salary of 600 *l.* a year, was it in the first instance difficult to find men morally and intellectually qualified to fill that office?—There was a very great difficulty; and more than that, during the greater portion of the early years of the experiment the native judges were, I am sorry to say, notoriously corrupt. Even now the moonsiffs, the lower class of judges, are only partially emerging from the imputation of corruption, which has so long hung over the whole body, and that by slow degrees.

2062. But you persevered, and paid them higher salaries, and ultimately you found you obtained a higher character of men?—No doubt; and I am quite satisfied that by persevering, by not doing things in a hurry, but by promoting men carefully, and as we find them fit for promotion, so that each promotion shall tell, and be subjected probably to no failure, and no discredit by want of success, you will go on as you have hitherto gone on, making the natives from year to year more qualified to take a more important and efficient part in the administration of their own affairs than they have ever done before; and it is in that way that I look forward to the improvement of the native character. I am far from supposing that after a time they will not be in this manner frequently fit for the very highest offices.

2063. You do not see any insuperable bar to the same course of treatment which has been successful in qualifying natives to fill the higher offices as judges, ultimately enabling us to have their services in the Legislative Council?—Not at all; on the contrary, I look forward to it as a thing to be hoped for and carried into effect as soon as ever it prudently can be so.

2064. With regard to one obstacle which you alluded to, the want of confidence on the part of the natives in their own race, does not that arise from a general want of faith in their moral character?—It does; I have said as regards the Europeans, the feeling of the natives generally is that they are incorrupt. As regards the natives, the general opinion, often erroneous, I am glad to say now, is, that they are universally corruptible. A native will never believe his fellow native to be incorruptible, till he has tried to corrupt him and failed.

2065. The Legislative Council, consisting exclusively of Englishmen, their having the confidence of the native races more than any members of their own race, would arise, of course, entirely from a belief in the superior moral probity of the European race?—In a great measure, and also from their standing apart from their divisions and differences.

2066. Apart from the belief in the corruptibility of their own race, the natives would naturally, one would suppose, prefer to have men of their own country as their legislators?—That supposes a degree of nationality of feeling among the natives, which I think does not yet exist.

2067. Is not there naturally more leaning to their own races than to the English race?—That is a sort of feeling which is growing up among people who have been very long subject to our rule, but certainly we find very little of the feeling among any of the natives I have been conversant with; and I should

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say, strange as it may seem, if you could put it to the intelligent natives of Bengal, for instance, as to whether they would rather be governed by Bengalese or Englishmen, you would have an overwhelming majority in favour of being governed by Englishmen; I think that undesirable, and I hope it will be otherwise in process of time.

2068. You attribute it to the belief of the natives in the corruptibility of their own countrymen?—Mainly.

2069. You spoke of the jealousy, and even animosity, which was directed against a native who had been promoted by Lord Dalhousie; does that spirit arise from a feeling of resentment against one of their own body, who is supposed by joining the Government to have abandoned the interests of his own race?—No, nothing of the kind; there is no feeling of antagonism, as between party and party.

2070. Is this jealousy and animosity directed towards a native upon taking office anything more than mere fireside envy?—It is mere petty envy and malevolence.

2071. Is not it founded upon the conviction derived from long experience, that when the Indian Government has absorbed a native into their own body, there is generally greater subserviency to the Government, on the part of that native, that on the part of a European?—It is not founded upon that; that feeling does not the least exist in India; they know nothing of the matter, but if they were to look to find anything of the kind they would find the case to be very often quite the reverse. The Government is extremely liberal as to the opinions, and even, as I may call them, the political acts of those native subordinates. To give the Committee an instance, certainly one of the most popular men among the English in Calcutta generally, and among persons connected with the Government, and one who has been most benefited by long Government service of a very lucrative kind, is a man whom I have already named, who was for years in the service of the Government, in various capacities, and realised in their service a very large fortune. He has chosen to set himself up rather as an opponent of things as they are, and an exposer of the faults of the Government administration, but he is not the least checked or controlled, or frowned upon in consequence; he is just as much received in English society, has just as much influence among the English, and during the time that he was in the Government service was just as much trusted as if he were as submissive as you suppose Government employment would necessarily make a native.

2072. He does not continue in office now, does he?—No; merely because he resigned from old age and a great accumulation of wealth, some short time ago; but it is a matter with which the Government does not interfere in the least; perhaps they rather like to see some spirit of that sort among their subjects, some desire to improve the institutions, to inquire into their defects and make suggestions for their improvement; it is a very rare thing among the natives, and far from discouraging it, the Government rather encourage it than otherwise, and the tendency of all their education, and all their improvement in that direction, has been rather to create this spirit than depress it.

2073. Mr. *Labouchere.*] What office did he hold?—He held a number of offices, which he filled for many years; he was dewan, or principal native ministerial officer, to the salt agent of Tamlook; subsequently to that he was what answers here perhaps to attorney-general: he was advocate-general or Company's vakeel; the trusted and confidential adviser of the Government in all its litigation in the Sudder Court, and in all the courts.

2074. Did he fill those offices to the satisfaction of the Government?—Eminently; he was one of the ablest men I can point to among the natives in Bengal.

2075. What was his education?—He is one of the exceptional cases I have occasionally alluded to; he acquired a considerable knowledge of English at one of the Government schools; he improved it afterwards by reading; he is a man of great natural acuteness; he has engaged a great deal in business, and has been thrown by his family very much into the society of the more advanced among the natives of Calcutta.

2076. Mr. *Cobden.*] I gather from your answers that you do not despair but that, with proper encouragement and judicious treatment, the natives may, at some future time, be rendered capable of filling any offices of trust?—I do not

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in the least despair; I go the full length of saying that I believe our mission in India is to qualify them for governing themselves; I say also that the measures of the Government for a number of years past have been advisedly directed to so qualifying them, without the slightest reference to any remote consequences upon our administration.

2077. Mr. *Hardinge.*] You have alluded to the legal training of civilians; would you recommend that a great deal smaller proportion of time should be devoted to the Oriental languages at Haileybury, and a larger proportion of time to jurisprudence?—Yes.

2078. You have also stated that you would have a native judge on every bench; do you mean in each zillah?—It is a financial question; my idea certainly is that it would be well to have an appeal court, such as I have described, with a native in it in each zillah, certainly as soon as the finances of the Government can afford it.

2079. Is there at present a sufficient number of natives with whom you are acquainted who are qualified for such appointments?—There would be a difficulty in the selection at first, no doubt, but there are many of the natives now serving upon the judicial bench as principal sudder amins, who might very well be tried, and who, most likely, would succeed in such situations; I should have no objection whatever to make the experiment.

2080. With regard to the selection of the judges according to the system of seniority, has that system been practically carried out?—Yes, it has, with a sort of constant feeling that it was wrong, and ought to be improved, and a constant convulsive attempt to improve it from time to time, but failing, whenever it did fail, entirely from the weakness of the Government. When the Government has been strong, for instance, when the matter has been in the hands of the Governor-general himself, and the Governor-general has had confidence in those about him, the system of mere seniority of promotion has been widely departed from, and I am satisfied that it will no longer exist as soon as the Government feels itself strong enough to do without it; by the expression "strong enough," I mean having both interest in the matter and firm stability: having the confidence of those above it, and having confidence in those below it, sufficient to face a certain amount of unpopularity which is always produced by such a change as I am now talking about.

2081. With respect to the chokeydary system, has it ever been contemplated by the Government to abolish that system, and have there been any remonstrances on the part of the zemindars when such a change was in contemplation?—A change is in contemplation at this moment, or was so when I left India, to the effect of enforcing the regular appointment, and the adequate payment of the chokeydars from the parties in the villages responsible for their payment. It has been very warmly opposed by a certain party in Calcutta, who profess to represent the interests of the zemindars in Bengal, almost entirely on account of the additional expense that the zemindars, or those representing the zemindars, think it would cause to them.

2082. As you have not yet stated to the Committee what are the duties of the superintendent of police, will you be good enough briefly to explain what those duties are?—The duties of the superintendent of police are to watch over the general management of the police of the country, by the several magistrates of the districts, who make their reports to him; he has also to report to the Government generally, and specially upon the efficiency of the establishments, and to propose measures for the improvement of the police, either by putting down crime generally, or by taking particular measures against some special offence, which has become prevalent in a particular neighbourhood, or otherwise, as the case may be; he has also to recommend, or to sanction, the appointment and dismissal of subordinate police officers; and it is from him usually that the Government takes that advice which guides it in the promotion and the distribution of the magistrates, and the police force in the country.

2083. Would you recommend that that office should be continued?—It is a comparatively recent office. It was established a long while ago; then put down by Lord William Bentinck, and afterwards re-established by Lord Auckland; I do not think it has been very successful. The country is too large perhaps to be under one man, and the officers too numerous; and there is a feeling growing up, whether owing to the failure of the particular individual in charge of

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of the office, or otherwise, I cannot very well tell, that the appointment is not so useful as had been anticipated.

2084. Mr. *Mangles.*] Will you be so good as to describe to the Committee what is the state of the law under the Company's regulations, as regards matters of litigation between the Government and individuals under the laws of Lord Cornwallis?—The law of the Government at present as regards disputes between the Government and individuals, is exactly the same as the law respecting disputes between man and man. The Government places itself in the position of an individual in all litigation with its subjects.

2085. There is no exception to that?—There is no exception or distinction whatever.

2086. The Government may be prosecuted on any matter of land revenue or customs revenue, and may be made to pay costs and damages just as an individual may?—Yes, quite so; so much so that the system was objected to by a very eminent member of the Government, afterwards Lord Metcalfe, as placing the Government prostrate at the foot of the civil courts; but I believe nobody agreed with him that it was objectionable, though they admitted the fact.

2087. You are aware that that is not the law in England?—I know nothing about the law in England.

2088. Sir *T. H. Maddock.*] You have expressed an opinion in favour of an amalgamation of the Supreme Court and the Sudder Dewanney Adawlut, to which appeals from all courts whatever in Bengal should be made, and you at the same time suggested the establishment of a subordinate court in Calcutta, to administer the English law; was that suggestion made as a measure to be permanent, or a temporary measure till some general code was established for the general administration of equal law to all classes in India?—I had an idea that it would be permanent. I have no idea that you can at any time deprive the English inhabitants of Calcutta of the English law; I think they are attached to it, and being so it is undesirable to deprive them of it, though perhaps it might be subjected, and of course will be subjected, to modification from time to time by the action of the Legislative Council.

2089. Will you state what you consider to be the population of Calcutta, and the proportion of the English residents to the rest of the population?—I am not able to state that. The English population is in fact small as compared with the natives; but the English population is very large compared with the natives, with reference to similar comparisons elsewhere; that is to say, a far greater proportion of the people of Calcutta are Europeans than would be found to be the case in a comparison of the proportion of the population of any other place in India.

2090. Do not you think it would be anomalous so to legislate as to create a permanent distinction between the law administered in the presidency towns and the law to which all Europeans would be subjected throughout the country?—I do not think one has much to do with the other. However you legislated, whether you formed a new code or not, you would require a court of appeal and a local court, which is all I have ventured to suggest; whatever code you administered you would require those particular courts to administer it.

2091. You have borne testimony to the confidence which the natives of India have in the purity and incorruptibility of the European judges; it is as great, probably, as the confidence they feel in the purity and incorruptibility of the judges of the Supreme Court?—Yes, quite as great.

2092. But do you suppose that there is that confidence, that although the judge in both those courts is perfectly incorruptible, suits can be carried through, and can be won without the expenditure of money?—No; precisely because the ministerial officers of the judge are natives.

2093. Mr. *V. Smith.*] Are the Committee to understand that your opinion is adverse to such an institution as the Law Commission?—Yes, upon the footing upon which it existed.

2094. Why was it allowed to expire?—From a feeling that it had not been successful, I suppose.

2095. And you would not be favourable to its renewal?—Not in the form in which it existed. I have explained that I would desire to see it revived, or a portion of it revived, as a part of the Legislative Council, but not otherwise.

2096. You stated yesterday that you considered the law member of the Legislative Council was useful as affording an opportunity for a person who was

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was a sound lawyer and a statesman to mix with the Council of India: what security is there that such a person as you rank under those high terms of a sound lawyer and a statesman would be appointed?—You have the security of the integrity of those who appoint him, and the temptation to a good man to take an appointment which is attended by emolument and distinction.

2097. You stated that your reason for wishing him to be there was that it was expedient that a sound lawyer and a statesman should mix with the Council; what security have the public that such a selection would be made? —There is none, except the proper administration of patronage by those who have the patronage of that office in their hands.

2098. They might not take the same view of it that you do?—Certainly not.

2099. Sir *C. Wood.*] You contemplate that this court which you have proposed to establish should be a court of appeal in criminal cases as well as in civil cases, do you not?—Yes.

2100. Mr. *Elliot.*] Have not periods occurred when the great majority of the best men in the service were found to have been placed in the judicial branch?—Yes.

2101. Was not it found necessary, for the security of the revenue at that time, that some of those officers should be transferred to the revenue department?—I do not know whether I can answer that question in the form in which it is put; perhaps it will be sufficient if I say it was found that the manner of administering the Government had tended to throw all the best men into the judicial department, and that the Government somewhat changed its administration, so as for some years to come to throw a proportion of the good men also into the revenue department.

2102. So that if it should have happened at any time that there was a rather smaller number of the best men in the judicial branch, that is by no means to be taken as the general rule?—No.

2103. Sir *T. H. Maddock.*] Has not it occasionally occurred that, upon the misconduct of a civil officer being reported to the Court of Directors, the orders and instructions which have been received from the Court of Directors have been to the effect of declaring such civil officer incompetent for further employment in the judicial branch of the service?—I do recollect one or two such cases.

2104. You have expressed an opinion very adverse to any Legislative Council which may be formed, having natives appointed members of it, either for the purpose of communicating the feelings and opinions of the natives to that Legislative Council, or for aiding it by an expression of their own views; do you consider that if it is resolved to form a Legislative Council without any native of the country being appointed as a member of it, there is any other mode by which you can obtain the opinion of the best informed of the natives upon any subject which is before the Legislature, in which they are especially interested?—I know of no mode other than that which exists at present, namely, the obtaining it piecemeal from the different parts of the country through our subordinate officers, who are in constant intercourse with the natives of all classes and castes and opinions.

2105. In all the native governments of India, whether Hindoo or Mahomedan, there is, is not there, a set of highly respectable persons, subjects of the State, who are much in the same position as Privy Councillors may be supposed to be in this country, to a certain number of whom any matter on which the Government desire to obtain the opinion of the best informed of its subjects is referred; do you consider that it would be impracticable, or that it would be useless, to have some such list of highly intelligent persons, like the list of the grand jury in the presidency towns, but extending further throughout the Mofussil to a certain select committee, to whom the Government might upon any occasion refer any question on which they desired to obtain their advice and opinion?—I should see no objection to having such a list of qualified persons to refer to, and it would give you what you very often want, the means of conferring distinction upon deserving natives; but you could never assemble them together in committees, at least not without immense difficulty; you must consult them separately.

2106. Could not you assemble a select portion of them?—It does not appear to me easy in a large territory to assemble even a small portion of them.

2107. Might not there be several committees assembled in different portions of

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of the country?—I dare say there might be; the natives, however, are unaccustomed to act in bodies of that kind; you would have, perhaps, some difficulty in getting a sound opinion out of them when you assembled them; and I repeat what I said before, that in the present state of the country, and the position of the natives as regards information, it is better to consult them in the manner to which they are accustomed, namely, singly, and through those who are most accustomed to deal with them.

2108. You state that as your opinion, notwithstanding it should be notorious that such is the practice in the principal states subject to the native princes?—Chiefly because that which is practicable in a small native state is not so practicable, and I am sure altogether impracticable, in the enormously extended territories of British India.

The Right Honourable Sir *Edward Ryan*, called in; and Examined.

Right Hon. Sir *Edward Ryan.*

2109. Sir *C. Wood.*] WHAT appointments have you held in India?—I was Puisne Judge of the Supreme Court from May 1827 to December 1833, and Chief Justice from December 1833 to January 1842.

2110. Did you then leave India?—I then left India.

2111. Are you not now a member of the privy council?—Of the judicial committee of the privy council.

2112. And you have sat upon the trial of Indian appeals in that capacity?—I have sat since June 1843 upon every Indian appeal down to the present time; not always as a member of the judicial committee; I have only recently been a member of the judicial committee, but I have been summoned to attend during the residue of the time.

2113. *Chairman.*] What communication took place in 1829 between the Sudder and the Supreme Courts and the Government as to the improvement of the administration of justice?—In 1829 the Government of India came to the conclusion that it was desirable to allow Europeans to be introduced without license into the Mofussil, and that they would recommend their free admission to the Government at home. As a consequence of such a measure they considered that it would be necessary to make Europeans subject to the courts of the Mofussil, and that for that purpose it would be necessary to consider the laws to which they ought to be subject; and they recommended, for the consideration of the authorities at home, the propriety of establishing a code of laws, a system of courts, and the granting enlarged legislative powers, especially in reference to British subjects, they having already the power of legislating in reference to natives in the interior. Various minutes passed at that time between the members of the Council and the judges of the Supreme Court, and an Act was prepared to be submitted to the authorities at home for consideration, previous to the renewal of the charter, containing a scheme for a Legislative Council. That scheme was, that the judges of the Supreme Court and the members of the Council should be members of the Legislative Council, and such other persons, a blank being left in the Bill, as might be nominated by the Crown, or by the Court of Directors with the approbation of the Crown. Those plans were sent home; they were alluded to in the proceedings in Parliament; they were printed by the Committee of the House of Commons before whom they were laid, and they probably formed some of the grounds on which Parliament came to the conclusion that enlarged powers should be granted to the Legislative Council, and that there should be a legislative member of that Council appointed from home, and that there should be a law commission for the purpose of considering what laws should be passed in India, for the purpose of establishing a code of laws and a system of courts in India, and especially with reference to the admission of Europeans into the Mofussil.

2114. Have the provisions of the Act of 1834 effected the objects which were contemplated in 1829?—Certainly not. It was the intention of the Legislature under that Act of Parliament, as is to be gathered from the words of the Act itself, that the commission should make inquiry into the existing system of the courts and examine the state of judicature generally in both the Queen's and the Company's courts; that after a full examination into the subject it should report the results of their inquiries; that the Governor-general should direct what inquiries it should make, and what places it should visit for the purpose of making those

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those inquiries. No searching inquiry has been made by that commission into the state of the existing courts nor into the state of the Queen's courts, nor have any reports of that nature been made, nor has the commission personally visited or inspected the state and condition of any of the courts in the interior; but it did proceed in 1835, when it was established, to the consideration of a code of criminal law. That was the first work undertaken by the commission. Perhaps there was some necessity for applying itself in the first instance to the formation of a code of criminal law, because if British subjects were to be placed under the jurisdiction of the criminal courts of the Company in the Mofussil it was necessary that there should be some law that was applicable to them and fit to be administered to them; the criminal law administered by those courts being the Mahomedan law, qualified by the regulations of the East India Company. That code was prepared in 1837. From 1837 to 1846 no step was taken with respect to that code, excepting that it was transmitted to the judges of the various courts in India, both the Supreme and the Sudder, for their consideration, and to report their views and opinions upon its provisions. There were elaborate reports made from various quarters of India. Those were reviewed in 1846 and 1847 by the two remaining members of the then Law Commission. Elaborate reports were made to the Government upon the observations which had been made upon the code by the judges of the Supreme and the Company's courts and other judges, and then I believe it was transmitted home, and in 1848 directions were given by the authorities at home to those in India to pass that code into a law, with such amendments as might appear advisable; what happened between that time and 1850 I am unable to state, except that the code was not carried out; but in 1850 the question again arose as to the necessity of providing for the trial of British subjects in the courts of the Company, and on that occasion the then Governor-general, Lord Dalhousie, was of opinion that the Mahomedan law, so qualified and altered by the regulations, in the manner I have mentioned, was not a fitting law to apply to that class of persons, and then the revision of the code again commenced. It was considered by Mr. Bethune, who was then legislative member of the Council: he altered it in various respects; in fact, he made an entirely new code of it. The alterations were of such a nature that the Government thought it fitting to remit that code so altered, and also the original code, for the opinion of the authorities at home; the authorities at home, I believe, in January 1852, again transmitted the code to India for the Legislative Council to deal with there as they might deem expedient. What has been done since that time as to that code I am unable to state. Other measures were proposed by the Law Commission; one of which was for the establishment of a subordinate criminal court; another was for a criminal code of procedure for the purpose of carrying out the penal code, called Mr. Macaulay's Penal Code; it was a code of procedure with forms of indictments. I am not aware that anything has been done as to that; that has been transmitted home; but I am not aware that any step has been taken upon it. There were other measures also proposed by the commission, tending to the improvement of the administration of justice in India; there was a proposal for what is termed the *lex loci*. In the time of Lord William Bentinck it was considered a grievance by East Indians, by the Armenians, and native Christians, that in the Mofussil there was no law as to succession or property applicable to those classes of persons. An attempt was made at that time to remedy the evil by a regulation which was prepared by Sir William Macnaghton, who was then secretary to the Government; that regulation was at the time submitted to me. I thought the legislative powers then existing were not sufficient, and the scheme was then abandoned. After the establishment of the Law Commission, this anomalous state of the law in the Mofussil as to that class of persons was submitted to them for their consideration. They made an elaborate report upon the subject, and they prepared a measure. Their report was made in 1840, and the Act was published in 1841, for the purpose of carrying out their views. From 1841 down to 1845 that question slept, for reasons which I am unable to state, but in 1845 it was reconsidered by the Government. It was approved of by all the judges of the Sudder courts and the Queen's courts in India, except one, by all the members of the Council, with the exception, I think, of one; and it was then transmitted home. From that time to the present, this measure, which was intended to remedy a great grievance as to those classes of persons I have mentioned, and also as to foreigners,

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foreigners, Jews, and others resident in the interior of the country, has slept, and, as far as I am aware, no step has been taken. I think I mentioned the subordinate criminal court, but I did not mention the subordinate civil court. A plan was also proposed by the Law Commissioners for a subordinate civil court. That was, in the first instance, to be established in Calcutta. The plan was, that this subordinate civil court should have jurisdiction over almost all civil cases, the parties having the option to try their cases before that court or before the Supreme Court. It contained a plan for what is termed a fusion of law and equity; that is, that the Court should have the power of deciding in the words which are used in the Mofussil proceedings, "according to equity and good conscience;" that they should have the power of examining the parties, and that they might also adopt what is termed the assessor plan; namely, the power of submitting the case to persons called assessors, who should express an opinion upon it, but should not have the power of deciding, the decision resting with the judge. That subordinate civil court was intended as a mode for the courts in the Mofussil. Both the subordinate criminal court and this subordinate civil court were framed as experiments in the presidency town itself, to be in some degree under the supervision of the judges of the Supreme Court, with a view to try the practicability of their extension to the Mofussil courts. As to the subordinate civil court there was considerable discussion; the plan was submitted to the judges of the Supreme Court for their opinion. There was a great deal of difference of opinion as to a variety of matters of detail. It was transmitted to the authorities at home, and upon that there was a decision by the authorities at home, not approving of it, though I do not know in what form their opinion of it was expressed, and in consequence that measure was not carried out. In the plan of the subordinate civil court there was a recommendation for the examination of the parties themselves; that is a measure which has been carried into effect in this country, and is a great improvement of the law. There was also a recommendation of what is under consideration here, namely, a fusion of law and equity, which means that the court before which the matter is brought should have the power of disposing of all that relates to the subject in all its branches; and that there should be no division, as there is in the Supreme Court at Calcutta at this moment, between law and equity. A party may commence his proceedings on one side of that court, and be told that his relief is in equity, and be obliged to commence his proceedings *de novo*; or he may commence his proceedings in equity, and be told that his relief is at law. The object of this court was was the adoption, in some respects, of the principle which is in force in the courts in the Mofussil: that they should have the power of deciding upon the whole subject-matter brought before them, according to what are termed the principles of equity and good conscience. There were various other measures which the Law Commission considered and reported upon, which are mentioned in a petition, which I believe has been referred to this Committee, a petition to the House of Commons by Mr. Cameron, who was a member of the Law Commission, and Legislative member of the Council of India; the prayer of which petition, I believe, was that these matters and others which I have not mentioned, in the preparation of which a considerable amount of money and time had been expended, should be submitted to some competent jurists, who might decide upon their practicability or usefulness; the fact being, as it would seem, that neither the authorities in India, nor the authorities in England, have felt themselves quite competent to decide, or may not have had the means of obtaining all the information which they required in order to decide upon matters involving questions of such difficulty and intricacy.

2115. Are you of opinion that the prayer of that petition ought to be complied with, and that there should be such a reference to jurists in this country?—I think it would be desirable that these matters should be considered by some commission in this country, formed, as I have reason to believe it could be, of competent jurists who would be willing to give their time for that purpose, and also of retired Indian judges, who, I believe, would be willing to assist; and also of civil servants of the East India Company, especially those civil servants who are now in England, and who formed members of the Law Commission in India: I mean especially Mr. Millett and Mr. McLeod; other civil servants, perhaps, might be willing to act. I think a commission so constituted would probably be able to form an opinion upon these plans, and not only upon these, but

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but upon other suggestions which might be made for the improvement of the administration of justice in India, and also upon the practicability of applying that criminal code to all persons in India, British as well as native subjects.

2116. Would you entrust that commission with the duties which it was intended by the last Act to impose upon the then-named Law Commission?—Of course they would not, and could not perform the duties of enquiry which I consider were a very important part of the duties entrusted to that commission; but as many of these plans have been much considered in India, and reported on by various authorities there, and as all the information which the Government could collect, has upon many of them been collected and transmitted home, I think with the assistance of civil servants familiar with the interior of the country, jurists here and retired Indian judges, a body might perhaps be formed competent to dispose of those matters in a more efficient manner than by remitting them again to India for that purpose, where the consideration of them, hitherto, certainly has not led to any conclusion.

2117. Is it your opinion that a body so composed would be competent to frame a code for the administration of justice in India, and that the object might in that way be better effected, than as has been suggested by another witness, by entrusting it to the Legislative Council?—My plan would be this: that this commission, if formed in the manner I have mentioned, should consider and report upon these plans, and such other suggestions as may be offered to them, for the improvement of the administration of justice in India; and that having made their report, the result, and the measures they propose should be remitted to India to be carried out by the Legislative Council in that country, with some authoritative declaration, on the part of the Government here, to prevent a recurrence of that which has happened so frequently, the transmission of measures from India to England, and from England to India, without any conclusion being come to upon them. I think it not desirable finally to dispose of them here, and I think it not desirable to legislate upon them here, but that the legislation should be in India; because, however carefully those measures may be prepared, even with all the knowledge which is now accumulated for the careful preparation of them, in the manner I have alluded to, still I think they would require adaptation by the Council of India, in the various details, and that that might be better disposed of there than here.

2118. What would go from this country would be a scheme, the final decision upon which would rest with the Legislative Council in India?—The legislation upon it would rest with the Legislative Council in India, with such alterations and adaptations as they might deem expedient; but any material alteration of the scheme I do not contemplate, after it has been decided on by such a body as I have ventured to allude to.

2119. Therefore you would not leave to the Legislative Council the liberty to change it?—I should be very unwilling that any great change should be made. Supposing, after the revision of the Criminal Code by the authorities I have mentioned at home, it were sent out, I should be very unwilling that, except for the purpose of adaptation, and except with regard to particular native customs, which might not be specially or sufficiently provided for, there should be any alteration by the Legislative Council in India.

2120. In your plan, would you leave to the Legislative Council in India the power to make such changes?—Yes.

2121. Do you consider that there would be a certainty of a perfect agreement between the Commission here and the Legislative Council in India?—I cannot be certain that they would take precisely the same views, but I presume if the authorities here expressed a very strong opinion in favour of the views reported upon by that commission, it is not very likely after all that has taken place, both with reference to the code and other matters, that the Government of India would oppose itself to those views, and alter the code in such a manner as to render what has been done here ineffectual. If I came to that conclusion, I should think it better that the legislation should take place here; but it is my confidence that that is not a probable result; that induces me to make the suggestion that it should be passed by the Council in India.

2122. In the first place, you feel confident that the body as you propose to compose it here, would agree as to what were to be the laws?—What was proposed of course would be decided upon by the majority; the majority here must come

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come to certain conclusions, and report those conclusions; it is upon those conclusions that I propose the scheme should be framed.

2123. Have you any suggestions to offer for the better administration of justice in the Supreme Courts in India?—I have no alteration to propose with reference to the Supreme Courts exclusively. I believe the Supreme Courts in India adopt all the improvements which are taking place in the administration of justice in England, and that as speedily as they assume a definite shape here, they are carried out by the judges of the Supreme Court in India, as far as they are able to do so. But I am of opinion, that the scheme which was suggested in 1829 by the judges and the Government at that time, namely, the amalgamation of the Supreme Court with the Sudder Court, is desirable. The notion which I entertain is this, that it would be desirable to unite the Queen's judges with the Company's judges in one court; that such court should be an appellate court for the presidency in which it is established; that it should be an appellate court from the Company's courts, and also from a subordinate civil court, to be established for the trial of certain causes in the presidency towns; I think this court also ought to have an original jurisdiction in certain cases. I think it would be desirable that one of the judges of the Supreme Court should try certain civil and criminal cases in Calcutta. It might be desirable that a judge of the Supreme Court should preside over certain causes in the Mofussil; for instance, cases have arisen where the result has been, in fact, a denial of justice, because a British subject in an extreme part of India has committed an offence; and to bring the witnesses to Calcutta for the purpose of trying him for such offence, would be almost impossible; whereas if the judge had the means of going to the place where the witnesses were, and trying the case there, justice would not be defeated. I allude particularly to some cases where grave offences have been alleged to have been committed by those holding high official offices in India, and which might have been disposed of in this way, and could not, in truth, by any other. I think, also, it would be very desirable that judges of the civil service who would constitute a portion of that court, should have an opportunity of going to the various zillahs in the Mofussil occasionally, for the trial of causes there, and that they should exercise in that way a certain degree of superintendence over the administration of justice in the interior.

2124. How would you compose that court?—Of the judges of the Queen's courts and the Company's courts. I see no objection to what I have heard mentioned here to-day, though that is not what I have considered at all, namely, the introduction of a native judge of considerable eminence.

2125. Of how many would that court be composed?—I believe the Sudder Court now varies from five to seven judges. In sketching out a scheme of this kind, I am, of course, merely alluding to the principles, and cannot attempt to enter into the exact details; I should think it should be composed of three judges sent out from England, educated lawyers, and the judges of the Sudder Court, with the sort of jurisdiction that I have just sketched out.

2126. Have you any suggestion to offer as to the law to be administered in the Queen's and the Company's courts?—I should be disposed to follow out what was suggested also in 1829, that there should be a general code of laws, both civil and criminal, ; a criminal code of law has been attempted in the manner which has been already alluded to; I think it would not be difficult to form a code of civil law; there are the elements of it in the laws which are administered at present to the mass of the people, the Mahomedan and Hindoo law, occasionally modified by the Regulations; what is most peculiar to those cases is the rules of inheritance and succession; the law of contract is very much the same everywhere; at least it may be made almost the same everywhere; there is the English law which applies to British subjects, but I should propose to deal with that as was suggested upon the occasion of that *lex loci*, it being intended at the time to introduce into the Mofussil, as to all persons excepting Mahomedans and Hindoos, the English law, it was not to be the English common and statute law as it exists in the local jurisdiction of the Supreme Courts, but it was to be a digest of it, which was proposed at that time to be framed by the now chief-justice, Sir Lawrence Peel, in communication with the Law Commission, and so much of the English law was to be introduced as was applicable to the circumstances of the country, I think such a digest would be applicable to all persons in the Mofussil, and I would make it

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it also applicable to all persons in Calcutta, for I would not have two systems of English law, and you would then only have to frame a digest of the Mahomedan law and the Hindoo law, and in that way, with the code of criminal law, there would be a uniform system applicable to all persons; of course the great difficulty in forming a code with reference to the natives would arise from the law of tenure, because with respect to the law of inheritance, and the law of succession, and the law of contracts, there would be no great difficulty, but the law of tenure varies very much in various parts of India, and in arranging that, there would be, no doubt, very considerable difficulty.

2127. What is your opinion as to the propriety of the immediate introduction of a system of juries in India?—That depends upon what is meant by the term jury. If by jury is meant anything approaching to the English system of juries viz., that the verdict is to be given by a unanimous decision in criminal and civil cases, it is quite out of the question. There was a suggestion made by Mr. Cameron in one of his plans for a subordinate criminal court, which was this: that there should be three assessors in every case; that those assessors should not have the power of deciding, but that they should give *seriatim* their opinions upon the case, and that the decision of the case should rest with the judge. That system, as the Committee is aware, was introduced into the Tenasserim provinces, where it has succeeded. It has been introduced also into Ceylon; it is said not to have succeeded so well there; though upon that subject I believe there are differences of opinion; and it is suggested that it has not succeeded so well in Ceylon owing to the class of persons whom the Commissioner, Mr. Cameron (who framed that system), suggested should be the assessors not having been selected for that purpose. In India, I think the plan would tend to the better administration of justice, if suitable parties could be found in sufficient numbers in the interior, of which I am not able to speak with anything like accuracy. But I by no means agree in what I have heard suggested here, viz., that the assessors should pronounce their opinions before the judge had given any intimation of his; I think that course very objectionable. In the first place, one of the great uses of this scheme of assessors would be this; if the judge has to sum up a case, it would ensure his own knowledge of the case; it would not only ensure his knowledge, but it would demonstrate to others that he had that knowledge; and not only so, but he would have, in the Mofussil, to sum up in the native languages, and it would also show his competency in that respect; and it must certainly, if he is thoroughly acquainted with the case, and has a thorough knowledge of it, tend to the better administration of justice, that the views of such an improved mind should be given to the assessors, before they form their own, and that they should have before them, as juries have in this country, the view of the judge. I know the objection to that course is, that it is said that juries will blindly follow that which may be suggested by the judge; but is not that saying that they are unfit to be jurors; if they are not competent to form any independent opinion you had better not have them at all; it is entirely a useless institution, and not only so, but if they are inclined to follow the opinion of the judge submissively, and have no opinion of their own, is not it also probable that in certain cases of great interest, or great excitement, which they have to try, they may be biassed by the opinions and threats of persons out of court? Therefore, upon the whole, it seems to me that it would be desirable to make the experiment in the mode the Law Comsioners have pointed out, and that the assessors should have the power of expressing their opinions *seriatim*, but not of deciding finally upon the case, the decision resting with the judge.

2128. Who would appoint the assessors?—I suppose they would be selected from a list framed by the judge of the zillah, the judge selecting persons whom he thought most competent to fill such an office.

2129. Your opinion is, that competent persons might be found for that purpose?—I am unable to speak, except with great diffidence, of the Mofussil, but I should think that competent persons might be found, whether persons always altogether trustworthy, is another question; but as, according to my plan, they would not have the decision of the case, it would be very desirable to have the opinion of well-informed persons.

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2130. Those assessors would be changed in the different cases that came before them?—Yes.

2131. Is your idea to apply that system to criminal cases only?—In this subordinate civil court there was a power given to have assessors in civil cases; In Ceylon, the system has been tried in civil cases as well as in criminal; in the Tenasserim provinces it has only been tried in criminal cases.

2132. Have you any suggestion to offer as to the judicial training of the Company's civil servants?—Of course, upon such a subject I speak with considerable diffidence, but I have formed an opinion, and, such as it is, I offer it to the Committee: I think it is very difficult to do anything that is effectual in reference to judicial training in this country, supposing the civil servants of the East India Company go out at the early age at which they now go out, namely, from 19 to 21. I think all you can do effectually here, is to endeavour to give them, as is now done, to a certain extent, a general knowledge of jurisprudence, some knowledge of the civil law, and also of legal and constitutional history; but certainly not to attempt to give them any knowledge of technical English law, further than I have mentioned. They do not remain here long enough to attempt that which is of great importance, namely, to understand the art of administering the law as well as the science of the law itself. Supposing them to go out at the age they do now, upon their arrival in India, I understand, a very strict course of examination in the native languages has been established by Lord Dalhousie; that, of course, is of the last importance. Having passed that examination, I am of opinion that it would be still desirable to place them as assistants to the collectors, or that they should be placed under collectors in the first instance. I think they would obtain a knowledge of the habits, and manners, and customs of the people in that way which they can probably obtain in no other; and I look upon that as being of great importance. It would make them familiar with the use of the native languages. They would see the people on various matters connected with their interests, and in that way they would have a training which I do not know that they can acquire in any other. Having remained for some, perhaps for two years, or a year and a half, in that position for the purpose I have mentioned, then I think another course must be taken with them. Under the old system they were appointed assistant registrars or registrars to the zillah courts. As assistant registrars or registrars to the zillah courts there is no doubt that they obtained a certain degree of training for the judicial office; in the first place, they had intrusted to them the decision of certain causes to a small amount, which causes were still under the control, to a certain extent, of the zillah judge, who signed the decree, and who confirmed the propriety of their decision in fact, for it was a confirmation in that way; by seeing what took place in the zillah court, and being entrusted to a certain extent with original jurisdiction in that form, they had a means of training which they certainly have not now. I believe at the present time, since the abolition of the office of registrar, they assume an appellate jurisdiction without ever having exercised an original jurisdiction at all; that I am quite satisfied is a great defect, and must be a great defect in all judicial training; whether that defect could be now supplied by placing them, not as assistants to the zillah judge, who does not exercise an original jurisdiction, but only an appellate jurisdiction, but as assistants in some form to the principal Sudder Ameens, or to the Sudder Ameens; I am unable to say further than this, that I am disposed to think, if there were not the political objection to it, of placing them in subordination to a native, they would in that way, under some of the able judges (as I am informed some of them are) in the native courts, acquire a knowledge of the administration of justice, which would be of great importance, namely, by seeing how the natives are dealt with by the people who understand them best, and in that way they would fit themselves to a certain extent for judicial employments. I am of opinion, that having once entered into the judicial service, let the training be of what kind it may, they should continue in the judicial service. I am satisfied that the interchange between the collector and the judge is not a satisfactory system. I am quite aware that the collector exercises *quasi* judicial functions, and that there is something like a form of procedure before the collector, but that is not the main business of his office, and I am of

of opinion, that having once entered into a judicial course they should continue in it, and look for their reward in that branch of the service.

2133. Your opinion is that as a first means of training, it is desirable they should act with the collector?—As assistants under the collector.

2134. But that afterwards when appointed to a judicial authority, there should be no subsequent removal to the situation of collector?—That is my view; I express these views with great diffidence, because I really am not familiar, like the civil servants, with the proceedings in the interior.

2135. What situation could a European occupy with a native judge?—He might be an assistant with a limited jurisdiction, as he acted as registrar, or assistant registar, with a delegated jurisdiction by the zillah judge in former days, his decision being confirmed by the zillah judge. If placed with a Sudder Ameen, he might have a jurisdiction in cases of small amount, and his decision might receive confirmation in the same form as the zillah judge gave confirmation to the decision of the registrar in former days; but I am quite aware that to that there may be considered to exist the political objection that it would be placing him in subordination to a native.

2136. Do you believe that the administration of justice would be improved in India, by the selection of barristers from England and from India for that purpose?—I do not think so; barristers from England, I presume, could not go out until perhaps of the age of 25; they would hardly be barristers till that time; I do not know what would tempt many barristers of that age to proceed to India, because it is quite clear that upon their first arrival in that country, they would be quite incompetent to fill the offices of judges in the interior. The first thing they have to learn, of course, is the native languages, which would not be so easily acquired at that age as at the earlier age at which civil servants proceed to India; they would have no opportunity of acquiring that species of judicial training to which I have before alluded; namely, becoming familiar with the natives in the transaction of business in the various ways in which civil servants obtain that familiarity in the office of the collector. Not possessing this knowledge of the languages, nor this familiarity with the manners and usages and habits of the natives, I do not see how they could become efficient judges in the interior of the country; it is not the knowledge of the science of the law which is so much required in the Mofussil courts; it is the administrative art which is so required, and that can only be founded on a familiar knowledge of the people, their manners and customs. It is facts that the court have principally to deal with; in dealing with facts in a country like India, you are surrounded with infinitely more difficulties than you are here. In the Supreme Court the opportunities and power of dealing with facts are greater than in the Mofussil courts in one respect; the judge in the Supreme Court, indeed, is unacquainted with the native languages; the greater part of the witnesses are natives speaking the native language, but before a witness is produced in that court he is carried to the office of the attorney; the attorney has under him a principal native manager, that native manager is familiar with the English and the vernacular languages; he sifts the witness in the office, and he communicates the result of that to the attorney. The attorney communicates it to the barrister. The witness is called in court after all this preliminary sifting, he is then examined in court in his own language, by interpreters, who in my time were men of extraordinary ability, and he is cross-examined of course in the same way; and after that sifting from the commencement at the attorney's office and his examination and cross-examination, the judge has very constantly the greatest possible difficulty in coming to a conclusion upon the evidence so sifted. Now what would be the position of an English barrister in the Mofussil, totally devoid of all those aids and without the information which the civil servants acquire by the species of training to which I before alluded?

2137. Should there be a power of selecting barristers in India who performed their duties satisfactorily?—I think if the Sudder and Supreme Courts were amalgamated in the manner I have mentioned, and if, as I am told now is the case, there are barristers practising in the Sudder Court who have a knowledge of the native languages and experience in conducting the causes sent by appeal from the Mofussil, with such practice and with such knowledge of the native languages, it is possible that you might be able to select from such a bar, occasionally, persons fitted to be judges in the Mofussil.

 2138. Those

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2138. Those facilities do not exist at present?—Barristers are now commencing to practise in the Sudder Court. The mode of proceeding in the Sudder Court has recently been very much changed, and the change in the mode of procedure will be found to facilitate the amalgamation of the Supreme and the Company's Courts. Formerly the course was this; an appeal from the Mofussil Court was carried to a single judge, sitting apart from the others, in the Sudder Court; he considered the case in the first instance; if he agreed with the court below the decision was confirmed, and it went no further; if he differed from the court below it was then carried to another judge; if he accorded with him, I believe I am correct in stating that the decision was then reversed; if he differed it was referred to a third judge. In that mode the appellate court conducted its business till recently; now three of the judges in the Sudder Court sit together; they decide by the majority; they have the proceedings translated, they have the points at issue agreed on, and having the points at issue agreed on, they hear the counsel in English and they give their decisions in English, so that the course of procedure in the Sudder Court in recent times has been very much changed. This practice would facilitate the amalgamation of the two courts, and has prepared, and is preparing the judges of that court for the adoption of a mode of procedure assimilated to that of the Queen's Court in Calcutta. I believe the Sudder Court, as at present constituted, contains several very efficient judges.

2139. Do you concur in the opinion which has been expressed, that the natives have, generally speaking, perfect confidence in the integrity and incorruptibility of the English judges?—I have not a sufficient personal knowledge of their views to express any satisfactory opinion upon that subject.

2140. Are the Committee to gather from what has fallen from you, that with the improvements which have already been introduced into the mode of examination of the civil servants for judicial stations, subject to the improvement in training which you have mentioned, the present system of sending out civil servants is sufficient to ensure competent persons for exercising the office of judges?—If justice were to be administered in India with all the formalities and technicalities of procedure with which it is administered in the courts in England or in the Supreme Court, of course they would require more training in England than they now receive for that purpose; but my general impression of the administration of justice by the Company's courts is, that upon the whole they arrive at the right conclusion, although the method of procedure is cumbrous, complicated and overlaid, and not very easily disentangled; I am speaking of their proceedings from the knowledge that I have acquired in the Judicial Committee. That is the only knowledge which I have of the proceedings of the Mofussil courts.

2141. Mr. *Elliot.*] Do not you think that the difficulty which you have described to exist, in regard to sending barristers from this country to qualify themselves for judgeships in the Mofussil, would in some degree apply to the judges who would be sent from this country to sit in the Sudder, provided they were to be sent, as I understand you to suggest, into the Mofussil, to hold circuits and decide cases on the spot?—I only thought of Queen's judges exercising any jurisdiction in the Mofussil, in the case of trials of British subjects in particular cases, of perhaps, considerable political importance; such cases have occasionally arisen. The English judge would, in those cases, have to be accompanied by an interpreter, who would be necessary for the same purpose for which he is obliged to use him now in the Supreme Court.

2142. Still he would be deficient in that knowledge of the natives, and their character and habits, which you have described as being so requisite to the office of a judge in the Mofussil?—He would not be more ignorant of them than he is when he sits in the Supreme Court and tries native cases there.

2143. Do not you think that the re-establishment of the Registrar's Court would be a much better mode of bringing up young judicial officers than any other means which can be suggested?—I am unable to venture an opinion upon the propriety of restoring the Registrars' Courts. I do not really know all the grounds upon which they were abolished, as they were during the time of Lord William Bentinck, I believe.

2144. Sir *J. Hogg.*] In the case to which you have alluded, is it your opinion that British subjects resident in the interior, should be subjected, like

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any other persons, to the jurisdiction of the Mofussil Courts?—Certainly; provided a proper code of laws were established for their trial.

2145. Assuming that the Legislative Council were considerably extended, so as to include the judges of the Supreme Court, and the judges of the Sudder Dewanny, and one or two members of the Board of Revenue, the Advocate-general, and perhaps the secretaries of the Government, are you of opinion that it would be fully competent to deal with all legislation in India?—All the current legislation in India.

2146. Do not you think that that body, so constructed, would be quite competent to take into consideration and deal with all the documents which you have suggested the expediency of referring to a commission in this country?—I do not think they would be so competent to dispose of all those schemes which have been proposed by the Law Commissioners, and which have been so well sifted in India, and upon which so many opinions have been expressed, as the commission which I have ventured to sketch out in this country would be.

2147. Would the consideration of those subjects involve any more difficulty than attaches to all other important matters of legislation, which must constantly present themselves to the consideration of the Council?—The amalgamation of the Supreme and Sudder Courts, the establishment of a code of laws, all codification being a subject of extreme difficulty, the carrying out this system of courts, subordinate and criminal, it being in fact a whole system for a great empire, I think are subjects which ought to be considered by the most competent persons you can procure for such a purpose; I do not think that the persons in India whom the Honourable Member has named, able as they may be, would be so competent as some great jurists in this country (I say nothing of retired Indian judges), and some of the civil servants who formed a portion of that commission, very distinguished men, and who have for years applied their attention to these subjects as well as Mr. Cameron, who was legislative member of Council and a member of that commission.

2148. The Supreme Court now, in its chief, has one of the most accomplished jurists of the day, has not it?—No doubt Sir Lawrence Peel is a most able person in every way.

2149. Sir *T. H. Maddock.*] You have alluded to the instructions under which the Law Commission was formed, and the subjects of its inquiry, and you have stated that instead of following the course which had been laid down by the Act of Parliament, it employed itself first and exclusively in preparing a criminal code; can you state whether the members of the Law Commission did that of their own authority, or whether they were directed by the Government of India to take that course?—I believe they were instructed by the Government of India to take that course. The Act of Parliament provides that the Government of India shall instruct them as to the subjects they are to consider, and as to the places which they are to visit.

2150. Would you sanction the amalgamation of the Supreme Court with the Sudder Court, of which you have given a favourable opinion, before the laws can be codified which must direct their future administration?—If the commission which I propose were established, of course they would consider the whole system, both the codification and the system of the courts, but I see no reason why the courts should not be amalgamated before such codes were carried out; I think they might be.

2151. It would be necessary then to establish a distinct subordinate court in the presidency towns?—I think so, for which there is a scheme prepared.

Martis, 5° *die Aprilis*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir T. H. Maddock.
Sir R. H. Inglis.	Sir Charles Wood.
Mr. Edward Ellice.	Mr. Hardinge.
Mr. Macaulay.	Sir James W. Hogg.
Mr. Hume.	Mr. Mangles.
Mr. Spooner.	Mr. Bankes.
Viscount Jocelyn.	Mr. Herries.
Mr. Cobden.	Mr. Newdegate.
Mr. Labouchere.	Mr. Elliot.
Mr. Lowe.	Mr. J. Fitzgerald.

THOMAS BARING, Esq., in the Chair.

Sir *George Russell Clerk*, K.C.B., called in; and Examined.

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2152. *Chairman.*] FROM the distinguished situations you have held in India, and which you have previously stated to the Committee, you may be able to afford us some valuable information as to the mode of the administration of justice in the non-regulation provinces?—The essential difference between the administration of justice in the non-regulation provinces and in the regulation provinces is its being in the former dispensed through fewer hands. In fact, there not being so many European officers to employ, it is indispensable that the administration of justice should be, in the non-regulation provinces, somewhat more summary in process and more prompt in execution than it is in the regulation provinces. The result perhaps is, that it is as satisfactory to the people at large as the more intricate system in the regulation provinces.

2153. It is more prompt; is it likewise as equitable in your opinion?—As equitable, I think, because greater reliance is placed on the co-operation of the natives themselves. That is indispensable, because the appointed officers in the non-regulation provinces, whether native or European, would not themselves have sufficient time to hear all cases in their own persons.

2154. In what way are the natives employed in the administration of justice in the non-regulation provinces?—They assist materially in purposes of police.

2155. Under the guidance or superintendence of a European magistrate?—Under the guidance of a Commissioner, or a Commissioner's assistant, or a magistrate.

2156. Has that police system been efficient, do you think?—I think, generally speaking, the police system which has prevailed in India from time immemorial has been efficient; more so perhaps than anything we have introduced as a substitute for it.

2157. You are speaking of the non-regulation provinces alone?—Yes; in the British provinces where the native institution of police still subsists, it is not made the best use of. It is paid for but neglected, and has fallen into disuse in favour of an expensive police of our own which has been added to it, and which the officers of the British Government in general prefer to work, as being more after our own form. That is the case, especially in the west of India, where you have two forms of police, one very costly, which has fallen into neglect, but which is still paid for indirectly in the villages, principally in kind, but still consuming so much revenue; the other being a paid police, similar to that of the North-Western Provinces, which is most used by the magistrates.

2158. What is the system which you say is paid for but not used?—It is the ancient hereditary police of India, numbering in the Bombay Presidency 25,000 men I suppose.

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2159. Is that sanctioned and paid for by the Government of Bombay?—Yes; that is to say, they enjoy an hereditary payment, principally in kind, at the harvest time, but they are seldom seen or heard of; they are of little use as police at present.

2160. Are their services never called for?—They were not at the time I knew the Bombay Presidency; I am not aware what may have occurred since, but it struck me that there was a very unnecessary expenditure for police purposes in consequence of our preference for our own system in those regulation provinces. I think we have lost much by disregarding the ancient institutions of the people.

2161. You consider the system of police in the non-regulation provinces as superior to that adopted in other parts of India?—Yes, I think so on other accounts than that; the magistrate or Commissioner's assistant in the non-regulation provinces would have more authority, and if he is a competent officer, the more he has the better.

2162. Is not that liable to abuse?—Not if he is a well selected officer. After all it depends upon the administration of the Government in India; if proper men are selected and are fully competent to exercise those powers which under native governments a native police officer would exercise, it is best, and it is safe to entrust them with such powers. A man is none the worse for being a European officer; but he has not half the authority which an officer in the same position under the native government would exercise; he must attend to forms and technicalities as regards evidence; he would not be allowed to admit evidence before him which had been taken by his native subordinate at a distance, though it was countersigned by all the most respectable heads of villages in the district, if a criminal chooses to contradict that evidence when brought before him; he is also checked in an unnecessary degree by appeals, and much valuable time is lost in his having to attend to a multiplicity of written forms.

2163. You are understood to say that you consider the police arrangements more efficient and less costly in the non-regulation provinces than in the presidencies?—I think so; I gave the instance of the Bombay Presidency, where we have two systems, both costly, but only one made use of, the other being preserved because it has come down associated with hereditary rights.

2164. Would you recommend the application of the police system now adopted in the non-regulation provinces to other parts of India as it exists, or with what alterations, if any?—I am not competent to say what is the precise system now adopted in the non-regulation provinces; it is some years since I left India, but from what I have heard of the administration of the Punjaub and some other of the non-regulation provinces, I should say that efficiency is on the side of the non-regulation provinces; justice is more prompt; there are not so many needless technicalities to obstruct its progress.

2165. Are there any improvements in the system now adopted in the non-regulation provinces which you would suggest?—I am not certain how far the revenue officers are employed exclusively on revenue duties, but I believe, generally speaking, they exercise the powers both of magistrate and collector; that I think is advantageous, provided in the subordinate native department there is an officer who can attend exclusively to police; by police duties I mean duties separate from magisterial duties.

2166. Will you explain exactly what is the present system in the non-regulation provinces?—I do not know what may be the present system; I am speaking of the system which I knew when I was last in India.

2167. Will you give a general view of the system which then prevailed?—It is the system of having recourse to the hereditary obligations of the zemindars or heads of villages to furnish information and co-operate with the Executive on all occasions; never absolving them from that responsibility at the risk of the loss of their lands and their rights.

2168. Viscount *Jocelyn*.] How is that system carried out; whom does the zemindar employ?—That varies in the different provinces without the limits of the regulations. In some cases he will employ his own hereditary watchmen; in others, again, we have abandoned that system, and introduced our own paid police. There he would have recourse to the paid police, and only afford them the advantage of his intelligence; he, of course, having the best information in the country. The landowners have information which no one else can possess.

2169. *Chairman*.] For any robbery, would he be answerable?—Yes, in some of

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of the non-regulation provinces; I believe there are no fixed rules. I have had no opportunity of learning whether the system at present pursued in the Punjaub, the latest acquisition, is different from that of the other non-regulation provinces to the eastward or to the westward.

2170. Would a European Commissioner decide whether a robbery had taken place, assess the damage, and levy it from the zemindar?—That would have been the process in the non-regulation provinces, where I resided. I adopted, with modifications, the system I found existing there, according to which the zemindar always binds himself in a bond to make good eleven times the amount of loss. That is the old law of India, with respect to all the property plundered within the precincts of his village.

2171. Mr. *Macaulay.*] That is only as a penalty?—It is as a penalty held over him, but seldom or never enforced strictly; he knows not only what passes in his village, but throughout the limits attached to his village. If a stranger passes his village, it is known to him before nightfall; if anything wrong occurs after that, he ascertains who that stranger was.

2172. *Chairman.*] That is the system pursued where compensation can be afforded by the repayment of money; in the case of murder or other crimes, what are their duties?—They are bound to lend their assistance to ascertain who the criminals were, and where they have gone if they have fled.

2173. Are they efficient for that purpose?—They are efficient, because they have the best information.

2174. Mr. *Ellice.*] You stated that there were two systems of police, one established by the Government, the other that conducted by the zemindars claiming an hereditary right to exercise that police; supposing an attempt was made to save the expense of one of those systems, by substituting a police employed by the Government entirely, in place of the double system which now exists, what effect would that produce upon the position and the relative responsibility of the zemindars?—It must depend upon the zemindars whether you could work efficiently the system of hereditary police.

2175. *Chairman.*] With regard to the administration of justice in civil cases in the non-regulation provinces, has that been in your opinion satisfactory?—I think it is fully as satisfactory as the administration of civil justice in the regulation provinces, if not more so, and for the same reason, that the officers there are obliged for want of time to fall back again upon the assistance of the natives of the best character in the country; they devolve the decision of many more cases upon arbitrators; they are compelled to do so, and they find the result satisfactory to themselves, and satisfactory to the people. Questions of caste are more satisfactorily decided by the members of a caste than in any other way; great banking questions which no European could get to the bottom of for years, are satisfactorily disposed of by a committee of bankers; but in the regulation provinces those things come regularly upon the file, and are worked out; the judge has no alternative; he must receive them, and work them through the courts.

2176. It is a system of arbitration in the non-regulation provinces?—It is often so; the courts are open at the same time to them if they prefer it; but sensible people do not anywhere prefer to go into courts if they can decide a thing by arbitration.

2177. From that arbitration they can, if they please, appeal to a court?—They can.

2178. But such appeals seldom take place?—Very rarely indeed, in my experience.

2179. After arbitration they can appeal to a court?—In the non-regulation provinces they can.

2180. Mr. *Macaulay.*] Do they not often enter into some agreement not to go to a court?—I have never felt it necessary to take that pledge from them; I felt so confident that they never would appeal; I have not known above one case in fifty appealed from arbitration, though with every possible facility enjoyed by the parties for appealing if they pleased.

2181. *Chairman.*] Suppose an appeal takes place, to what court can they first appeal?—When I was in the non-regulation provinces, they might appeal from my decision to the Commissioner at Delhi, who was my superior. It does not occur to me that cases came back to me from him, so that I infer they were not appealed.

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2182. The Commissioner at Delhi would have referred the case to you for re-consideration?—He would have had the whole case before him on his circuit.

2183. Supposing he did not agree with you, what course would he have taken?—He might have reversed my decision.

2184. Mr. *Macaulay.*] The Commissioner at Delhi was a political officer, was not he?—He was both political and judicial.

2185. He exercised judicial functions, but he had had no special judicial training, had he?—Mr. Metcalfe was the Commissioner at the time I am speaking of; Mr. Fraser was another Commissioner; both men of much judicial experience.

2186. *Chairman.*] After arbitration they could appeal to you, and if your decision was not satisfactory, they could appeal to the Commissioner at Delhi?—Yes.

2187. Supposing his decision not to be satisfactory, was there a further appeal?—The parties would have made themselves heard by the highest authorities.

2188. The decision of the Commissioner would be considered final?—If a case of the kind had occurred, they would not have rested satisfied with the Commissioner's decision; they would have gone to the Government, and appealed; the people of the up-country are never silent under oppression.

2189. How did you select the courts of arbitration of which you have spoken?—I recommended the parties to select their own arbitrators.

2190. Viscount *Jocelyn.*] Did you select any yourself?—Only in very difficult cases; when I thought they would be divided, I appointed one on my own part.

2191. Mr. *Macaulay.*] Is there any way in which a case following that course, and going from the arbitrators to the Commissioner at Delhi, could be brought before the Queen in Council?—I should imagine if persevered in, the appeal might go forward to England; from the Commissioner at Delhi an appeal would be to the authorities in Calcutta.

2192. The appeal would not have been to the Sudder Court?—No, to the Governor-general; it was altered subsequently to my time; but it was originally to the Governor-general.

2193. Was there any instance of a judicial appeal of that sort coming home to England?—I have never heard of one.

2194. *Chairman.*] You have had opportunities of comparing the relative merits of the administration of justice in our own territories and in the native states; what is your general opinion upon those relative merits?—My opinion, perhaps, is formed very much upon the opinions I have heard expressed by the natives themselves. Our administration of criminal justice is very much applauded for the zeal of our officers, their devotion to their duties, and their integrity; at the same time it is thought not to be such as to repress crime to the degree that might be done, owing to mistaken leniency and excess of forms enabling criminals to escape. That, I think, is the objection to our criminal system. With respect to our administration of civil justice, it is ridiculed by well-informed natives, owing to the tediousness, delay and expense of procedure, the introduction of a variety of technicalities, the field allowed for chicanery, and, generally, the tendency to draw cases into court that never ought to go so far; in short, all those respects in which cost, and mysteries, and absurdities of law in this country have been adopted, are permitted in our administration of law in India. I should say that the lower orders, as far as the administration of criminal justice is concerned, are happier under the British administration than under the native administration; but with respect to the administration of civil justice, I think the reverse is a good deal the case.

2195. Mr. *Macaulay.*] You are instituting a parallel between the native states and the regulation provinces?—Yes.

2196. Do you think that there is any superiority in the administration of civil justice in the native states over its administration in the non-regulation provinces?—I think there may still be some advantage in favour of the administration of justice in the native states.

2197. But not to the same extent?—No; but native governments have the means of commanding more hearty co-operation on the part of the respectable natives than we have; they can confer privileges on men of character such as we have it not in our power to offer.

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2198. Mr. *Mangles*.] In case of a wrong being done by the Government such as an over exaction of revenue, can the parties obtain any practical redress from the courts in the native states?—They are never silent till they get redress, and they exact it from the chief.

2199. How do they obtain it?—By stating their grievances to the appointed authorities. In some states where the system is ill regulated, the aggrieved will nevertheless make themselves heard; and if not listened to by subordinate authorities, will scruple not to stop their chief by seizing his horse's bridle, or by other clamorous means.

2200. *Chairman*.] From your evidence, the Committee understand that you believe the natives are better satisfied with a more arbitrary administration of justice, because it is prompt, and that the course which has been adopted in the regulation provinces in consequence of the necessary forms which have to be gone through, rendering the administration of justice more tardy, has been less satisfactory to the natives?—Inasmuch as it is tardy, I think so.

2201. With regard to Bombay, of which you were Governor, was it your opinion when you were Governor that the European judges were competent to their duties, and to the authority they exercised?—There were some among the judges very competent, and some perhaps much otherwise; that is inevitable at present.

2202. Do you consider that they were so incompetent, that substantial justice was not administered in the Presidency of Bombay?—I saw no instances of people suffering from the incompetency of the judges, but there certainly was a want of men properly qualified to sit on the Bench in the Bombay Presidency; that I felt in selecting officers for the position, and therefore, of course, I apprehended that the people might suffer. It is to be inferred that there was a want of a due administration of justice, in consequence of our not being able to select those who were sufficiently qualified to fill the office of judge.

2203. Do you attribute the want of competent men to the fact, that the most eminent of the civil servants were employed in the revenue department?—I think they generally preferred the revenue department; but there were not enough.

2204. Not enough in number, do you mean?—Not enough of the requisite qualifications desirous of serving in the judicial line.

2205. Is there any remedy for that evil which occurs to your mind, which you would suggest?—The first remedy, of course, is for the Government to be very particular in their selection of men for the bench. I should hope, that Governors generally were influenced by that desire; but I imagine that it is often a cause of inefficiency, that there is not sufficient precaution exercised in selecting the most fit persons. Another evil is the allowing them to retire from it in order to take up revenue appointments.

2206. Would that deficiency be remedied by a strict examination, or by the establishment of a college in India; or what means would you suggest for the improvement in efficiency of the officers?—It did not occur to me that the material might not be sufficient, if you could take it from other departments; but the difficulty lay there, that many men were employed in other departments who would have efficiently presided on the bench. The remedy that suggested itself to my mind was to relieve those from magisterial and revenue duties, enabling the Government to select from a larger field for the bench.

2207. Is it your opinion, that uniting the collector's duty with the judicial duty at first, is a hinderance to the acquirement of the necessary knowledge and capacity for the exercise of judicial authority subsequently?—I think the separation objectionable. I cannot conceive a man becoming fully acquainted with the languages and the customs of the people, without mixing among them as a collector or a collector's assistant; perhaps better as a collector's assistant for a certain term of years. Besides the advantage of knowing the natives and their languages, he perhaps more readily acquires a knowledge of their differences, their tenures, and questions of custom and caste, as an assistant collector, than in any other sphere in India. After all, it is a question of numbers; judges are not to be found, unless you resort to the best magisterial and revenue officers, and take those who have the requisite experience and other qualifications.

2208. Mr. *Macaulay*.] Does not the happiness of the body of the people of India depend quite as much upon the efficiency of the collector of a district as

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as upon that of a judge?—It certainly, generally speaking, depends more upon it.

2209. Would there be any real advantage to the body of the people of India in giving them even very good judges, if that were done at the expense of leaving them only inefficient men to be collectors?—I was not proposing that the residue should be inefficient; I meant to supply their places with others, and there I think the difficulty lies. I would prefer introducing men to supply the existing deficiency on the bench from among a class of men who know India and the people well, to introducing them from any other class. Then arises the question, how to fill up the vacancies so occasioned, and that is only to be done efficiently, I think, by selecting men from the army for magisterial duties.

2210. Would not an improvement be more likely to be produced, if in the original appointment of the young men who go out to India, those were selected who were the flower of the youth of England, the most intelligent and the most highly educated?—Those who go out to undertake military or civil duties in India are generally well educated. In some instances they are highly educated, but they are always educated young men.

2211. If some system of competition could be devised by which you could insure that every young man who went out in the civil service was above the average, would not the effect of that be, that both in the revenue and in the judicial departments, you would probably have a supply of better public servants?—I think not better public servants; they might be more talented men; they are now drawn from that class of society, than which I know of none who educate their children in more honourable principles. I mean as a class, I think they are peculiarly suitable, and when in India, the characteristic of both military and civil servants is integrity. They look upon peculation and perquisites as filth. They are now proclaimed to be ignorant and stupid, but why they should be so I cannot conceive; they have great experience, working up as they do, through a gradation of offices, and hence in the provinces of British India is to be found as contented a people as you will find in any other part of India. I speak of the lower orders and the middle classes.

2212. In the majority of cases, have not the men who have made the greatest figure in the civil service been the men who, when young, have been considered as of high promise at Haileybury?—Certainly; of late years I have heard several instances of that nature; men highly distinguished at Haileybury have immediately taken positions in India which they have filled with very great credit, and though I do not think highly of the amount of progress made in Oriental languages at Haileybury, I can call to mind many men who have turned out very good linguists in India, who took honours there.

2213. The power of acquiring languages is, I suppose, of the very greatest importance to a servant of the Company?—It is indispensable to efficiency.

2214. Is not it probable that as a great part of the education of the young men of England consists in the study of the dead languages, a young man who at 18 is found in competition to be decidedly superior to his rivals in his knowledge of the dead languages, is more likely than the others to become a good Orientalist?—Certainly; a man who is exercised in the dead languages will be likely to acquire the Oriental or any other languages with comparative facility.

2215. Is not it also the case that a young man who has distinguished himself above his competitors in mathematical science generally brings great power of apprehension and great vigour of mind to any other subject which he may take up, whether it be the law or public business of any kind?—I should say not necessarily public business in general, but that he would make a good judicial officer.

2216. Did you ever consider what has been, generally speaking, the success of men early distinguished in mathematics, at the English bar?—Speaking generally, they have been successful.

2217. Supposing the course pursued in appointing writers were this, that young men should be selected, say at eighteen years of age, on account of their superiority in those studies which are commonly pursued by the educated youth of England, namely, the ancient languages and mathematics, and that the best of them should be sent out to India, is it not probable that you would then have rather a superior class of men intellectually, not to say morally, from

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from whom to choose subsequently your revenue servants and your judicial servants?—To attain such proficiency it would, I suppose, be necessary that they should go out at a more advanced period of life.

2218. Supposing that young men were selected at the age of eighteen upon an examination, and were then sent for two years to lay the foundation of Oriental learning at Haileybury, and to pursue there the study of law, political economy, and other sciences which are important to a person who is to govern men, would not that be very advantageous?—It would be a great advantage to them.

2219. Do not you consider that if young men were selected by competition in that way, and were then sent to Haileybury to pursue for two years the studies peculiarly intended to fit them for service in India, and were then sent out, you would have a class of public functionaries superior, not in honour or integrity, but in ability, to those at present employed?—If selected either by means of a strict examination or by competition. One might produce the effect as well as the other.

2220. Do you conceive that any examination of which the object is merely to let a person pass, can ever produce so good an effect as an examination in which the best is chosen?—Perhaps not.

2221. Is not it always the effort of examiners, whenever the question is whether a young man shall pass or not, to let him pass?—Yes, often so; and of his teachers to render him competent to pass.

2222. Is not there always a good-natured feeling in the examiners, leading them to let a man get through at the lowest point possible?—I do not know that that is universal; I should think not.

2223. Is not it quite certain if there is a competition, and only the best is appointed, you will get a good man?—Certainly.

2224. Mr. *Mangles*.] Is not it within your experience that men have become very eminent public servants in India, who have not been distinguished at college, either at Haileybury or in India?—I can recal some instances of men who were not known till they showed themselves in the service.

2225. Have not you known many instances of that description?—I have never considered the subject, but there may be many such men.

2226. Would your observations upon the state of the judicial bench at Bombay be applicable to your experience in the North-Western Provinces?—Not in the same degree.

2227. There was there a larger proportion of able men upon the bench?—Yes.

2228. *Chairman*.] From your experience of the qualifications of those who have been sent out to the civil service in India, are you in favour of the maintenance of the system of education at Haileybury?—With examinations sufficiently strict, such an institution as Haileybury College is a very necessary one.

2229. Do you think that an improvement in the administration of justice in India would arise from appointing judges in India, selected from practising barristers in England?—Considering the wants of the people, I think decidedly not, and with respect to the introduction of barristers from England, there would be great difficulties; there is no doubt you would get better judicial knowledge, but barristers worth sending to India would not, in a bad climate, be satisfied with the pay or the labour you give a judge in India.

2230. Supposing he earned but little here?—I believe there is no case in which a barrister of reputation and talent in England would accept such a situation in India with the present salary.

2231. Mr. *Macaulay*.] What is the salary of a zillah judge?—From 2,500 *l.* to 3,000 *l.* a year.

2232. Sir *T. H. Maddock*.] One great object must be to have a barrister with a sufficient knowledge of the language?—Yes; even supposing he were qualified for the administration of justice, it would take a considerable period before he could acquire a sufficient knowledge of the languages and habits of the people of India to take his seat upon the bench. A barrister, I presume, would not be considered qualified for such a situation under the age of 25 or 26. Then having gone to India, he must, to become in any degree acquainted with the practice, remain in the precincts of the Supreme Court for two or three years more; no barrister of reputation would sacrifice his prospects here for such a hope of reward, which might be about one-fourth of what his income would be here, considering what would be his necessary expenses there.

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2233. Mr. *Mangles*.] Having gone through that process, would he be competent for the duties of the judicial bench without having a knowledge of revenue affairs, and the habits and manners and feelings of the people?—Certainly not; a residence at the presidency would not by any means qualify him for that office without some years in the interior; he ought, in order to know the people, pass some years in the interior of India.

2234. Mr. *Macaulay*.] Do not you think there would be very considerable danger that if barristers were sent out to occupy judicial seats in India it would become a mere job, and the least efficient part of the English bar would be sent out?—That would be the effect, I have no doubt.

2235. *Chairman*.] You mentioned that cases had come to your knowledge where you thought that persons who occupied judicial situations in the Presidency of Bombay were not altogether competent for their duties; did that occur likewise in the North-Western Provinces?—It is so many years since I was in the North-Western Provinces that I do not at this moment remember any instances; having been more recently in Bombay, I have in mind instances in which there was difficulty in finding successors on the retirement of judges, or their absence on account of ill health. A colleague of mine there, who was very competent to form an opinion, thought that there was great difficulty in finding qualified judges; I then considered how to supply the deficiency, and it occurred to me that having honest and very efficient men in the magisterial and revenue departments, they might be selected, and that for magistrates and collectors and deputy collectors you might go the army; there you find those who have been for eight or 10 years in the habit of conversing with the natives of all classes, and who are perfectly fit to be magistrates; in fact, I desired to revise the whole police system of Bombay, and to put every district under a military commander: I found them there in command of military corps, local police battalions, and on them I proposed to devolve police duties, and in some instances magisterial duties, relieving to that degree the collector and magistrate of those police duties requiring his going round the country, as an efficient police officer ought of course to do; where a collector and magistrate is expected to look to the police he must be an inefficient police officer, or he must neglect his revenue duties; generally speaking, he will give the preference to the revenue duties, and will not be always ready to go here and there in the pursuit of criminals.

2236. Are the Committee to understand that you carried out that system, or that you only meditated its adoption?—I proposed to adopt it; I reported on it, and recommended its introduction as a means of reforming the whole service; but it has never been carried out, I believe, to this day.

2237. Will you state to the Committee more in detail what your plan was; into what districts would you divide the presidency, and what population would you put under each police officer?—The plan I proposed was to blend the two descriptions of police which I found existing. It was first of all apparent that there was a numerous body of police who were made very little use of; they were left in possession of their hereditary pay, which belongs to them for the performance of certain duties. We come in with our English institutions, and despising that which we find existing, introduce another class of policemen, subjecting the State of course to a double expenditure. As I mentioned before, there is a police existing, and which has existed for thousands of years, numbering 30,000 or 40,000 men. I proposed to relieve the collector in some degree of his police duties, and relieve the native collector also, called a tehsildar in some parts of India, of his duties, by appointing one of his subordinates specially to the police. I found great difficulty for want of that; criminals were seldom traced; there was no detective police, on account of the reliance on the existence of a military corps. After a crime had been perpetrated, I found that the chief native police officer was engaged with his revenue accounts; that he had been occupied perhaps half the night with them, and was not able to move off in pursuit till the morning; I therefore proposed to transfer one of his subordinates to the police duties specially, and to relieve the European magistrate by devolving all that responsibility, as far as concerned his police duties, upon the military officer commanding the police battalion. Then came the principal question, what to do with those two services, the hereditary police, thousands of them, and the paid police, called peons, or footmen, or watchmen. In the one case, owing to disuse, the hereditary police were less efficient than they were

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were formerly under the native governments; in the other case the paid police were inefficient, owing to their relying in some measure upon the hereditary men; so that between the two I thought there was a very inefficient police, and I desired to reform it. I reported the whole case fully, but I do not know that the reform has been carried out.

2238. By your plan there would be no additional number of Europeans necessary?—None whatever; neither Europeans nor natives; there was no proposal of an increase of any kind so far as I remember.

2239. Would you divide the country into districts?—Yes, as it is now divided; there is not much fault to find with the districts as to size or extent.

2240. Viscount *Jocelyn*.] Would you get rid of the hereditary police?—You cannot do that; I would get rid of many of the others, and work the hereditary police, because you must pay them.

2241. Sir *C. Wood*.] Do you think you could make them efficient?—There is no reason why they might not be efficient; they had been efficient for centuries.

2242. Mr. *Macaulay*.] Their pay they must have whether they work or not?—Yes.

2243. Viscount *Jocelyn*.] How could you secure the efficiency of that police?—Through their heads, the landowners; they eat the grain of the harvest for those special duties.

2244. They are paid in grain, are they?—Principally; some are paid in money; some in grain; some in bread at the door besides.

2245. Mr. *Mangles*.] Do you think you are justified in assuming that they have been efficient for thousands of years?—I do.

2246. To take a single case, how do you account for the system of Thugging having reached such a height, and flourished for centuries in India, till we took it in hand recently?—I assume that they were efficient, or they would not have been maintained in their integrity as they always were; the zemindars would have resumed the compensation for their services.

2247. May not the fact have been that the rulers were indifferent to the state of the country?—Judging by what we see of the native Governments, I do not think that is to be inferred; we see vigorous native Governments.

2248. How do you account for the existence of Thugging?—The extraordinary secrecy with which it was carried on was one thing, and another was the universal language they adopted among themselves; they blinded the authorities, and carried on their crimes at a distance.

2249. Are you aware that in the Punjaub, where Thuggism was not supposed to exist to any extent, it has prevailed in spite of those police institutions, to such an extent that one single gang has destroyed within the last 10 years no less than 2,000 persons?—That is since we drove them out of Hindostan into the Punjaub; we have been at work at Thuggism for the last 25 years; I believe it did not exist in the Punjaub a quarter of a century ago.

2250. Have not we hung or transported a great number of them?—A great many, but there is no doubt that many have gone to the Punjaub from Hindostan.

2251. Mr. *Hardinge*.] What is your opinion as to substituting a military for a civil police in Bengal and the North-Western Provinces?—I was not aware that it was proposed to do so; I have never seen an exclusively military police work very efficiently; I have seen it tried, but I do not think it answers so well as employing village watchmen, and working their superiors up to their responsibilities.

2252. Would not they in Lower Bengal be ignorant of the Bengalese language, assuming you recruit your police battalions from other places?—You would not recruit them from a distance.

2253. Would a Bengalee be fit to be a sepoy in the ranks of the police battalion?—Among Bengalese he would; such corps do exist in the Bengal Presidency; the superior grade is the sepoy, then come the peons, and then the zemindars.

2254. Do the police battalions in Bombay work well, in your opinion; are they efficient?—They work well as a superior grade in the police, but they would be inefficient if you devolved all the duties of the police upon them; that is not attempted; the whole body is composed of three grades, but after all, the real police duties ought to devolve upon the lower grade, who are born

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and bred in the villages, and who know every thief and his ancestors, and every crime which he has perpetrated; we now lose that information generally.

2255. Mr. *Mangles*.] Is not there in central India a very valuable class of people called trackers?—Yes. In all sandy soils they are maintained in some way; they have their privileges. In some cases they have grain allotted to them out of the harvest heap; in other cases they hold a certain amount of land rent free for that service. In the native states, if they do not efficiently perform their duties, they would be liable to punishment, or to lose their land allotment, or if supposed to connive at robbery, to lose their ears.

2256. Does not that class of men occasionally perform very extraordinary services in detecting crime?—Very important services.

2257. Is not it the law in the native states, that if they trace a body of robbers into a village, and the village cannot trace them out on the opposite side, that village is answerable?—Yes, and very properly so, because, when a zemindar obtains the village lands, he accepts it with those conditions, that he shall be so answerable.

2258. Mr. *Macaulay*.] Have you any efficient mode of compelling these hereditary police to do their duty; you say a native prince cuts their ears off?—Or he resumes their land.

2259. Could we resume their land with facility?—Not directly.

2260. What mode of coercion would you employ in case of their inefficiency? The heads of the villages accept the settlement of their villages with the understanding that those obligations devolve upon them.

2261. What course would a zemindar take with a watchman who did not turn out when his services were required, or with a tracker who took a bribe?—He would resume his land, or make his land over to a more efficient member of the fraternity.

2262. Upon the zemindar himself, what would be the nature of our control?—We ought to resume his land and privileges.

2263. Sir *T. H. Maddock*.] How can they be described as hereditary, if a village watchman is liable, upon any inefficiency in the performance of his duties, to be ousted from his land?—The right is only hereditary on that condition.

2264. Viscount *Jocelyn*.] Upon the whole, do you think that where the arrangement existing under the regulations is in force, its results show it to be inferior in value to the whole system of the village arrangement?—I think it is less efficient on that account; that we have not the hearty co-operation of the heads of the villages; we set them aside in a great degree.

2265. Mr. *Hume*.] Are the Committee to understand from you, that under the zemindary settlement the maintenance of the police is provided for as part of the arrangement, and that you would avail yourself of that original settlement, and carry on the police through the heads of the villages?—Yes.

2266. Is not the objection which you have taken to our introduction of new modes of police this, that we no longer avail ourselves of the responsibility which attached to the parties who carried on the ancient police of the country on whom we could act by the resumption of their lands if they violated the condition on which they held them?—Certainly, by resuming their lands, or resuming other privileges of less importance, but which they highly valued.

2267. The old system, in fact, threw the responsibility on the heads of the zemindary, with whom the Government had made its arrangements?—Yes.

2268. Through them the duties of the police were enforced?—Yes, by means of their village police.

2269. You have stated that it would be advantageous instead of introducing any of the new forms which we have introduced, to have recourse, to some extent, to the old system; are the Committee to understand that the men so employed, feeling themselves in their proper position under the zemindars, would act with more spirit in detecting any breaches of the peace or robberies which take place?—They would act with more spirit, and with more efficiency, because it is easier and more satisfactory for those to act who have the means of information at hand, than for a stranger not residing in the village or in the neighbourhood.

2270. It is your opinion that the more we deviate from the original native police institutions the less likely we are to succeed, and the more expense will be incurred?—I think so on two accounts; one is, that in their original insti-

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tution the native police arrangements were good; the other is, that in that which we have attempted to substitute we have not funds to pay our native magisterial officers sufficient salaries to command their devoted services; we cannot reward and punish as they did; we do not grant lands rent free, for which a native will serve you to the death; we cannot punish to the extent that they would; they have no fear of our punishments, and they have no hope of great rewards from us.

2271. Does not the circumstance which you have stated of a penalty being exacted to 11 times the amount of the loss, show the spirit and object of the institution to be the maintenance of a responsibility through the head over all the different parties?—It does.

2272. Responsibility, in fact, is the principle that you would recommend in all police establishments?—I think so.

2273. You have been asked some questions respecting the military; is it your opinion that the Government should have the opportunity of selecting from military officers, where they find knowledge enough and fitness for the situations, persons to fill civil offices?—Yes, for the magisterial offices and collectorships in question.

2274. You have stated that civil justice is more satisfactorily administered in the non-regulation provinces than in the others; you have stated that more zeal is shown because there is a greater power of bestowing dignities and rewards; will you explain what is the nature of those dignities and rewards, and why the British Government could not avail themselves of the same means of securing good service?—There are certain privileges which are very acceptable to the natives which a native chief may offer, but which are not comprised in our social system: for instance, association in ceremonies or in amusements; or, going higher up, receiving a daughter in marriage. On the other hand, we have nothing to confer but regular pay, and on certain occasions titles, which no doubt are esteemed, though not so much so as would be the case could we confer also the concomitant privileges and perquisites which, under a native government, such titles would carry with them.

2275. You say that the system is more satisfactory, because it is more prompt, and divested of those forms which we have introduced. Will you state what those forms are which you would remove?—I adverted in some degree to the variety of appeals. In the non-regulation provinces, perhaps the responsibilities are so great, that only very efficient officers are chosen; the more efficient they are, the less necessity there is for appeal of course, and the fewer the appeals, the more prompt will be the decisions. In the one case, in the regulation provinces, those appeals may be necessary; in the non-regulation provinces, you perhaps have a superior class of men, and you do not require to check them by so many appeals; therefore you come to the end more promptly, and that is satisfactory to the people.

2276. You have alluded to the assistance which is obtained in the non-regulation provinces from the natives, by their inquiries and examination; will you explain what you mean by the inquiries, which the chiefs are not able themselves to make?—I adverted to the use of punchayets.

2277. You would make more use of native agency in the punchayet, for the settlement of such matters, than is now done in our own provinces?—Yes, I think so.

2278. Looking at the long experience you have had of the natives, what is your opinion of the standard of morality among the best of the native population, those with whom you have come in contact, and in whom you have placed confidence among the higher classes?—I should say that the morality among the higher classes of the Hindoos was of a high standard, and among the middling and lower classes remarkably so; there is less of immorality, and less of extreme poverty, than you would see in many countries in Europe. In all their domestic relations, and their charity to their neighbours, they are superior to what you will find in many countries; it is not so much so perhaps with the Mahomedans, but still I should say that there is no striking degree of immorality among them.

2279. Is it your opinion that confidence might be placed in the natives for the performance of the duties of many higher offices than they are now employed in in those districts?—Certainly, if allowed salaries sufficient to place them on a respectable footing.

2280. You

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2280. You mean that if their allowances were such as to maintain them in the relative station in which they ought to be, as compared with Europeans, confidence might be placed in their honest and straightforward conduct?—Certainly, for official business of most kinds.

2281. With respect to that portion of the natives of Bombay who are admitted to associate familiarly with the English, what is your opinion of their capacity for the performance of public business?—The only natives of Bombay who much care to be admitted to European society are the Parsees; they are a very quick and intelligent race, but they are not numerous, and not very fit to take employment throughout India; they prefer living in the island of Bombay.

2282. They are chiefly employed in commerce?—Yes, exclusively, and in shipbuilding: they are very famous as shipbuilders, and have been so for ages.

2283. In the other provinces do you think the natives may, under an improved system, such as you have alluded to, be made available for many services for which Europeans are now employed?—For any, even the most important and trustworthy, on sufficient salaries, in the internal provinces.

2284. Does your experience enable you to say, that where a sufficient salary was allowed, and due confidence placed in them, you have found the natives fit for any duties connected with the Government of the country?—I have felt the want of the power of giving those rewards which the natives prize more highly than a salary in hard coin. Such rewards are essential, perhaps, to command their devoted service, including loyalty. You cannot now expect that. They disregard, comparatively speaking, money salaries, though these of course are not unacceptable, and render them quite efficient as official men.

2285. Will you state what those rewards are to which you refer, which you think they prize above money?—Those rewards which the native governments of India would confer upon them for good service; a village, for instance, in perpetuity, rent free, or a small portion of land, from one acre to one thousand.

2286. Do you consider that the British Government could not bestow the same reward, if not in perpetuity, yet for their lives, or for a certain period?—Certainly; I have availed myself of that power, having on special occasions had that discretion, or I could not perhaps have obtained the services I have obtained from the natives.

2287. Do you consider that the natives could be in any way associated as members of council with Europeans to carry on the general affairs of a district?—I think amongst the most qualified natives of India there are some who would be fully competent to take their seats in such a council; but I think it would be very injudicious to admit them as councillors.

2288. You think that they may be consulted, but that they should not be members of the council?—You must otherwise admit a great number of members; if you adopt an individual native as member of a council in India or in England, you would very soon hear that that man, though supposed to be the representative of the people of India, was in fact a representative only of one people: at the most, of one nation. There are 50 nations, and the 50 nations would require their 50 representatives. When you come to such an extension of a legislative council it becomes a popular one; and when you come to a popular council in India, you will very soon have to leave the country.

2289. Looking at the difficulty which arises from the number of castes and sections among the people, in what way would you avail yourself of the opinions and knowledge and assistance of the natives?—I should take it for granted that most of the British officers in India who have arduous duties to undertake do consult the natives, without which I cannot conceive the possibility of their being generally well informed and successful. I suppose it is open to any one to consult a native of information and character without admitting him to share his office any more than to share his salary.

2290. To what extent would you consider them capable of being employed as judges; what is the present amount up to which the head of the Principal Sudder Ameens can decide causes?—It varies in the different presidencies; some have jurisdiction to the extent of 500 *l.*; and some, as Principal Sudder Ameens, to the extent of double that amount, and I consider them capable.

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2291. Have you formed any opinion as to the extent to which that amount might be raised?—I rather think in some ameenships at this moment the Principal Sudder Ameen has an unlimited jurisdiction with respect to amount.

2292. Your opinion of the natives generally is, that, with a proper selection, they may be advantageously employed in the administration of justice?—Yes; but I think they ought to be put above want; they ought to be at ease in their circumstances; though of good family sometimes, still they are the poorer members of it.

2293. Have you formed any idea of what should be the scale of payment to the natives, in order to enable them to maintain the station in society in which they ought to be maintained, having regard to the present allowances to our European establishment?—Nothing need be done hastily, but they might be brought on by degrees to a higher rate of payment, if they continue to show themselves deserving, till they attain the same salaries as the collectors and magistrates now have.

2294. Mr. *Cobden*.] In speaking of the high moral qualities of the natives, do you mean to say they are truthful?—Very much so; the contrary is ascribed to them; but I mean to say that there is no part of India where you cannot find men upon whose entire truth you can rely in asking an opinion or deciding a difference.

2295. Mr. *Hume*.] Are the Committee to understand that while you would effect the change of placing more responsibility on the natives, you would at the same time make that dependent on merit and good service?—Certainly.

2296. You have alluded to the difficulty you found in selecting proper officers when you were Governor of Bombay?—Owing to their paucity.

2297. What means has a governor going out from England, utterly unacquainted with the characters either of natives or Europeans, of making that trustworthy selection which you say is essential?—He can make no good selection on his own judgment; he must refer to his colleagues for information, and be under their guidance.

2298. Is it your opinion that the governors ought to be men who have had a certain education in India, and become acquainted with the habits and languages of the districts of which they are to be governors?—I do not think it is indispensable that they should have been in India before, but that they should have turned their minds to the subject for some years, and be determined to select the most efficient men without reference to any other motive but that of the good of the service and the good of the people. They should not yield to pretensions founded solely on seniority, or to prejudices.

2299. Are the Committee to understand from you that efficiency of administration, in whatever branch of the service, depends upon the proper selection of individuals to perform the different functions?—On the proper selection by Government; in fact, all depends upon the efficiency of the Government. The local Government has ample discretion, I believe, from the Home Authorities, and is not compelled to adhere even to seniority. There is a certain limit prescribed by the old charter, leaving still, however, an ample field to choose from; and if the governor is disposed to set aside all claims of favouritism and seniority, where the seniors are inefficient, he can in all parts of the service select very efficient men, with the exception that there are not a sufficient number perhaps to fill the bench as judges.

2300. You would resort to the army?—I would resort to the army for the men whom I would place in many magisterial and fiscal offices, and so obtain the services in the judgeships of those who might be best qualified.

2301. Sir *R. H. Inglis*.] You have referred to the competency of the natives to fill higher stations than they have hitherto occupied; will you state to the Committee what is the limit up to which you would employ a native without any reference to a superior of European birth, always excepting the Governor in Council?—I should contemplate raising the natives, within 10 years, to the rank of magistrates and collectors; afterwards they might prove themselves to be qualified to fill still higher positions, but I do not think it would be necessary to go further than that for the present; that would be a great advance for them.

2302. You have referred to the imperfection of the administration of justice occasionally in the presidency of which you were governor; you stated that one of the causes was the paucity of servants from whom you could select judges. Is it the case now, whatever may have been the case 50 years ago, that in

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in any single instance justice is administered before a magistrate ignorant of the language of the parties pleading?—Certainly not before one who has attained the rank of magistrate.

2303. The system of interpreters has passed away entirely?—Entirely.

2304. In other words, the natives of India enjoy in every instance the advantage of having a judge competent to hear their complaints in their own language?—Certainly, as far as I have seen. It never entered my mind that there was such a thing in existence as an interpreter in a court; I mean out of the presidencies.

2305. In the Supreme Court of course the system of interpreters prevails now as it has always prevailed?—It does.

2306. When you stated that there was this paucity of servants from among whom judges might be selected, you of course were not to be understood to refer in any degree to the supreme courts?—No.

2307. Nor to assume that their selection had been otherwise than discreet?—Certainly not.

2308. With respect to the selection of judges or magistrates in the inferior courts, has not the discretion been exercised, generally speaking, as well as, from the materials before the supreme authorities, could have been expected?—I do not think that.

2309. Do you suggest that there have been improper appointments?—Not improper; but there has been a want of due discrimination.

2310. Has that want of due discrimination terminated in improper appointments?—They may be said to be improper; it has not been done from improper motives exactly, but from not disregarding those pretensions founded on seniority which are often advanced, and which are the cause of inefficient men being put into active employments.

2311. Sir *T. H. Maddock*.] In the administration of justice in the non regulation provinces, are vakeels employed in the same manner as they are in the regulation provinces?—Vakeels are employed; but there is a difference between the two cases.

2312. They are not professional men?—No; they are not upon the register of the court.

2313. In speaking of the want of rewards as a stimulus to the natives in their exertions, particularly on police and other matters, are you aware that there is any prohibition on the part of the Government against the offering of land in small quantities in the shape of rewards?—I am not aware that it is prohibited; I myself have obtained permission to grant land to the extent of two or three acres, but it was after a good deal of trouble that I obtained it. I infer from that, that the Government was averse to alienate lands, especially as so much pains were taken to resume rent-free tenures.

2314. You alluded to the native governments offering rewards of a more extensive and substantial nature in the shape of villages. Are you aware whether the Government of India are under any prohibition on the part of the Home Authorities against alienating lands without permission?—I am not aware that they are; but in practice they do not confer them, except to a very small extent, as, for instance, two or three acres for sinking a well in some districts.

2315. You have stated that you are of opinion that in the course of 10 years probably the natives may be considered as eligible to be appointed to the situations of magistrates and collectors; did you mean that they might then be placed in respect of salary upon the same footing as the European magistrates and collectors?—Yes, I should look forward within that period to their being brought up almost to that standard.

2316. Do you consider that the same rate of salary is required for a native that is required for a European; is that the same actual sum of money in reality a much greater reward for the services of natives than for the services of European officers?—I think there would be found to be very little difference in the wants of the two classes when the native is placed in that position; his expenditure would be in some respects of a different nature, but it would be equal to the proper liberal expenditure of the European; he would have a description of retinue which the European would dispense with, but which the native would consider only proper to his station; the European prefers to go unattended; the native, as a mark of rank, always desires to be attended by a suite.

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a suite. In that way, I think, the salary required by him would approximate very much to what would be required in the other case.

2317. Mr. *Elliot*.] Can you inform the Committee at what standing civil servants are generally appointed to the office of judge?—I am not sure how that may be, but I should think seldom under two or three and twenty years' service.

2318. If it should have been stated by any other person that judges are appointed at the age of 23, do you consider that that is likely to have been the case in the Bombay Presidency?—No, I should rather have supposed it meant after 23 years' service.

2319. The statement to which I allude is of this nature, that they go into office at the age of 23 or 24 as judges, but they sit as judges of appeal only?—But for that last clause, I should have supposed it was a mistake for assistant judges; it must, however, mean a session judge, because he alone sits in appeal; the assistant judge does not sit in appeal, but the statement is very different from what I suppose to be the case.

2320. You think it must have been a mistake on the part of the person making the statement?—I should suppose so.

2321. Viscount *Jocelyn*.] In those native states which you have had an opportunity of seeing, do you consider that justice is fairly administered to the natives?—Yes, generally speaking, it is administered fairly, but that which is the most striking feature, and the most applauded by the natives of India in our system is, that the same pains are taken to administer justice for our poor as for our rich; under the native system the rich have the preference.

2322. Is there a greater degree of corruption in the native states than in our own territories?—I do not think so.

2323. Do you consider that there is a great deal of corruption in our own states among the subordinates?—There must be so long as they are inadequately paid; they must maintain themselves in a certain position, and are required to do so.

2324. You do consider that the subordinates are inadequately paid?—Yes, in those departments of which I have been speaking, the magisterial and revenue departments, and also in the judicial department: I am speaking of provinces in which I have not been for many years, but the moonsiff, I believe, has 100 rupees a month, that is 10 *l.* a month, out of which he has to maintain his own official establishment, at least he had to do so formerly; that is rather low pay for such an office.

2325. In the non-regulation provinces, in criminal jurisdiction, how did you find the system of the punchayet work?—The criminal cases referred to the punchayets would be comparatively few; certainly I have been in the habit of referring cases of assault and land disputes, and even cases of homicide, to the punchayets, but it is not ordinarily done; it has, however, worked satisfactorily; the great difficulty of putting a stop to hereditary feuds is also sometimes satisfactorily solved by them.

2326. In general, did you make use of the punchayets?—In civil cases I did; not ordinarily in criminal cases; still there are criminal cases occurring between men of the same caste which are very well referred to the heads of their caste, such as cases of petty assault, abusive language, slander; those cases on which there is no precise law, or full redress, either in this country or in India; if you can refer these to the heads of the caste they will settle them in a very satisfactory and a very humane way.

2327. Was it more satisfactory to the natives that those cases should be summarily adjudicated upon by the officers, or that they should be referred to punchayets?—When they involve anything approaching to cases of caste, they are more satisfactorily decided by the punchayet; but if summarily disposed of by the European magistrate, who as a rule was known to be a man of integrity, that also is very satisfactory to the natives. It is the tedious practice of the courts which is harassing to them; if it is the ploughing or the sowing season, for instance, and the sufferer has to attend the court for many days, it is a great annoyance, as it is in any other country.

2328. Was there a general confidence among the natives with whom you had to deal in the honesty and integrity of the European servants?—Unquestionably.

2329. Mr.

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2329. Mr. *Hardinge.*] Is the punchayet system in existence now in the Rajpootana dominions?—Yes.

2330. And in all the independent States?—Yes, the authorities do not bring before themselves such cases as I have now alluded to, unless a punchayet or arbitrators in some form have found difficulty in adjusting them.

2331. The rajahs have the power of life and death, have they not?—Yes.

2332. Mr. *Mangles.*] You expressed a very high opinion of the moral character of the natives, and stated that you placed great confidence in them; was that local or general; was it confined to the particular provinces in which you were employed, or did it extend throughout India?—I have been employed in many parts of India, and I never was where I should not have felt confident, and have not felt confident, that I could rely upon the truthfulness of certain of the natives.

2333. Is that the case in Bengal Proper?—I never was in Bengal Proper, except in an inferior judicial office, as registrar under a judge; it was in a regulation province, and therefore I had no opportunity of referring to the natives to arbitrate; but in several other parts of India I have done so.

2334. You must have a general knowledge of the people of Bengal; do you think they are trustworthy?—I believe they are not so in Bengal; the nearer Calcutta perhaps, the worse they are. My reliance upon the truth of the native would be especially in taking his opinion upon local matters where he has a character to maintain.

2335. Are not the natives very much inclined to lean to what they believe to be the opinion of the man asking the question?—Decidedly not; if fairly referred to, heads of villages, zemindars, and others, are capable of giving perfectly frank and unbiassed opinions.

2336. You speak very highly of the system of punchayet; are you aware that many very able men have spoken of it as a rude system of arbitration, which has been superseded in the opinions and feelings of the natives, whereever ordinary good courts of justice have been established?—I have heard that said, and testing it myself, I have not found it to be the case. I have generally found them very glad to resort to the punchayet, and willing to abide by its decision.

2337. Are you aware, that in Madras, under Sir Thomas Monro's system, great facility was given to the punchayet by making resort to it cheaper than to courts of justice; and yet, when courts of justice were established, the courts of justice had business as 100 to 1 above the business referred to the punchayets?—I think in certain parts we have damaged the punchayets by our interfering with them so much, making it compulsory, and leaving the litigants less choice in the selection of arbitrators.

2338. Have not you heard in some parts of India, about Agra, that such punchayets have very often ended in pitched battles; in the case of boundary disputes, for instance?—Yes, but I have often terminated pitched battles by means of punchayets.

2339. Are you aware that Sir Thomas Monro stated, that of more than 100 principal district officers whom he had employed, he had not eventually found more than six or seven who had not been guilty of corruption, or peculation of some sort?—Because their respectability had been destroyed by reducing them under the ryotwar system.

2340. Were the principal district officers under paid?—I think the same cause may have produced the same effect as now.

2341. Mr. *Lowe.*] Have the natives in Bombay confidence in the administration of civil and criminal justice in our courts?—I think they have to the same extent that they have in other parts of India.

2342. Have they confidence in the justice with which appeals are heard and decided from the decisions of the local magistrates?—I think they have, peculiarly so in the case of decisions on appeal.

2343. Have they confidence in the decisions made at Bombay?—Yes, that is upon appeal.

2344 You do not acquiesce in the common notion that there is a belief in the power of obtaining decisions corruptly by interest or bribery?—I have never heard it asserted with reference to the Sudder Court in Bombay, when I knew it some years ago.

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2345. There is no feeling among the natives that a rich man is more likely to succeed in an appeal than a poor one?—I was not aware of the existence of the feeling.

2346. Viscount *Jocelyn*.] Do you think you were likely to have known of it if the feeling had existed?—I was not long there; but if the feeling had been prevalent, I suppose I should have known of it, and ought to have known it.

2347. Mr. *Lowe*.] Can you suggest any means by which such a feeling, if it had existed, could be diminished among the natives; they are prone, are they not, to entertain a suspicion of corruption of everybody in office?—The question assumes that the Court has a bad character, of the existence of which I was not aware.

2348. Mr. *Fitzgerald*.] Are the decisions of the judges between the lowest class and the zillah judge looked on as equal to the decisions of the zillah judge?—I have had but little opportunity of comparing them, but I should say that they are. The decisions of all the native judges are considered, I believe, to have fully answered the expectations formed of their capacities for administering justice.

2349. Have you ever taken pains to inquire into the questions which have been raised upon appeal from the decisions of the native judges, and the result of those appeals?—I have read their decisions.

2350. Have you formed a judgment upon the subject yourself, as to whether the decisions of the zillah judges are superior to those of the native judges?—I should not say that they are superior. The decision of the native judge is as good as that of the European judge.

2351. In your opinion the native judges have exhibited as much efficiency as the European zillah judges?—Yes; therefore I see no objection to the unlimited amount of the suits which a native judge may decide in the highest grade of Ameens.

2352. You stated in answer to a question as to the propriety of sending out English barristers to fill the judicial appointments in the Mofussil Courts, that you did not think that English barristers of eminence would accept the salaries which were given to the judges of the zillah courts; I understood you to say that their salary was 3,000 *l.* a year?—From 2,500 *l.* to 3,000 *l.*

2353. Do you apply the answer you have given to the bar as it at present exists in this country and in Scotland and Ireland, that if it were desirable to appoint to such offices English, Scotch, or Irish barristers, you could not find gentlemen of efficiency at that rate of salary?—That was my meaning; that a barrister qualified to take such an office in India, considering the period of his life that he must have spent in England, and adding to that the period he must pass in India in qualifying himself for the bench, would not consider the salary of the office in India, with its labour and bad climate, sufficient to compensate him for having abandoned his country and his profession here.

2354. Do you happen to know the amount of salary which is given to the County Court judges in this country and the assistant barristers in Ireland?—It is 1,000 *l.* a year, I believe.

2355. In Bombay you have had in the Supreme Court a local bar?—Yes.

2356. Has it been the custom to fill up the vacancies among the zillah judges from those barristers?—No.

2357. Supposing it were considered advisable to hold out to the local bar there the prospect of appointment to the zillah judgeships, would not it be likely to attract a great number of English barristers to practise in India to take their chance of those appointments?—I think it would require too long a period for them to qualify themselves, and then they would not be so well acquainted with the habits and language of the people as those who were trained up from their youth there.

2358. Do you look upon it as essential to the efficiency of a zillah judge that he should be a person acquainted with the habits and language of the people?—I do.

2359. I understood you to say that in the non-regulation provinces with which you yourself were acquainted, you had found an advantage in referring cases to arbitration?—Yes.

2360. That is, in inducing litigants to refer their disputes to arbitration?—Yes.

2361. I assume

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2361. I assume that from those arbitrators there is no appeal?—Yes, there is an appeal.

2362. Their decision is not binding?—It would be in a native state, but not under British authority.

2363. In the non-regulation provinces which you are acquainted with, has the jury system in civil cases been at all introduced?—Yes, I have tried it.

2634. Has the introduction of the system proved beneficial?—I have always thought I would persevere in it, but it is no doubt found difficult to carry out; at the same time it ought not to be abandoned.

2365. What course did you pursue when you endeavoured to carry the system into effect: what number of jurors did you select?—The difficulty is so great in procuring any, that the fewer the number which is required the better.

2366. In your own practice what number did you adopt?—I never attempted to have more than three, and that generally broke down.

2367. Did those three jurors sit as assistants to yourself?—Yes.

2368. I presume you either adopted their decision, if you agreed with it, or, if you did not approve of it, you pronounced your own judgment?—Yes: as far as I carried it I always pronounced my own judgment, looking forward to the time when they might pronounce their's, but they were then totally unfit to do so; I tried it more through the medium of my assistants under me than with myself personally, but I have myself used it.

2369. It was adopted more with a view to train up the natives to assist in the administration of justice than with a view of receiving actual assistance from them at present?—Yes, just so.

2370. Did they act under any obligation similar to an obligation upon oath?—No.

2371. How were they selected?—By personal request to the best men of the neighbourhood; it was always a great annoyance to them. After a time the man considers, for instance, that he would be better engaged sitting in his own shop, and turning his money to account, instead of losing his time in court.

2372. As the result of the experience you have had in regard to this attempt to introduce the jury system, is it your opinion that it would be beneficial that it should be extensively introduced?—To the extent, I think, of having two or three assessors. I would not think of impannelling a jury of 10 or 12; that is unattainable. I speak of the upper parts of India.

2373. I suppose they assisted you only upon questions of fact, and not upon questions of law?—That was all.

2374. Would you consider it a beneficial improvement in the system of the administering justice in civil cases if, instead of the present complicated process of taking evidence in writing, the evidence were taken orally?—It is always an advantage, I think, to take evidence orally where you have time for it; but work is too heavy in that country; the longest day would not suffice for a single judge to receive orally all the evidence to be taken.

2375. If it were possible to do so, your opinion would be that it would be beneficial to have the evidence given orally?—Certainly; and it is very much the custom in the non-regulation provinces to take the evidence orally.

2376. When you take the evidence orally, how is the appeal conducted?—The appeal is upon the record; the parties are summoned before the court of appeal, if necessary; the record received there contains an abstract of the evidence.

2377. The appellate court can only deal with the report of the evidence?—Generally so, but can rehear the case if thought necessary.

2378. Mr. *Newdegate*.] How long, in your opinion, would it take an English barrister to become familiar with the manners and customs of the people of India?—It would depend very much upon the position in which he was placed in India. He would have greater facilities for becoming acquainted with their customs in some positions than he would in others. He would learn little of their language or their customs by remaining at the presidency, and it would be difficult to find him that occupation in the interior which would enable him to acquire their languages and a knowledge of their customs in such a manner as to be efficient as a judge, under many years' residence.

2379. Supposing that occupation were found him, how long would it take him to acquire a knowledge of the languages and the habits and customs of the people?—I should say seven years.

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2380. Is not that knowledge more especially essential where juries are employed, where the evidence is taken *vivâ voce*?—Yes.

2381. Mr. *Macaulay*.] Is there any institution fee or causes in the non-regulation provinces?—Where I have been employed there was not.

2382. *Chairman*.] As you are about shortly to leave England, the Committee wish, departing from their general plan, to ask your opinion upon a subject which does not come immediately under their consideration at the present moment, namely, the revenue question. What is your opinion as to the revenue system which existed in Bombay when you assumed the government there?—The system in Bombay is what is called the ryotwar system, which I think of many systems is the most objectionable, as carried out by us.

2383. Will you state in a few words what the principle of the ryotwar system is?—It is a very minute and detailed assessment of land under individual cultivators, in small allotments, directly by the government; so that they are, as we found them, still paupers; there is nothing between them and the government: the government has no funds to support them in case of their tending breaking down, and the consequence is a deterioration of the lands, as far as I have seen; generally speaking, that is the objection to it In itself it is not an unfair mode of assessment, but quite the reverse, but we have not the agency to carry it out properly; you require an honest agency; with the exception of the European officers, you have no one that you can rely on thoroughly for such purposes.

2384. Your idea of the ryotwar system is, that it does not work well, either for the government or for the natives?—Certainly not; they have no head landholders over them to acquire capital; they are of a class who never do acquire capital in any country; mere cultivators. In the case of any sudden visitation, such as damage to a village by a hail-storm, a famine, or disease among the people, or among their cattle, there is nobody to support them, or to prop up a falling village; you have under such circumstances to make a remission of the claim of the government; the benefit they derive from a remission of revenue of course depends upon a just assignment of it to the sufferers, but you have to pass that through the hands of your native officials, and you cannot be always certain that it is properly distributed.

2385. Is that remission of revenue a total remission, or is it claimed subsequently if the ryots are in a better position?—That depends upon circumstances. The rule of the British Government is not to allow remissions; they assume that the assessment is so just as to be adapted to average seasons, and to all fluctuations, and that the people with whom they made the settlement, the ryots as they are called there, will never need a remission. That is all very well till the time of diffiulty comes; but then of course they come down upon you for a remission; they will not starve; they have no habits of thrift; they have no inducement to amass capital; in fact they cannot, it is not to be obtained upon those small pieces of ground; they come for a remission, and then there is the second difficulty, that you do not know what becomes of that remission. If you could put a European in the place of every native officer, nothing could be more perfect perhaps, but you cannot do that. An honest trustworthy man should be looking at every single ryotwar village every sowing time and every harvest time; and besides that, whenever any calamity happens to the village. If you could carry that out, the villages would improve under the ryotwar system; wanting that, as far as I have seen, they never do improve.

2386. Supposing a remission to be made one year, is the arrear claimed subsequently, and payment enforced?—Yes, it is always expected to be recovered; naturally, in dealing with those poor cultivators, you have less chance of recovering your remissions than you would have from those who have more capital; they live from hand to mouth, and must have very extraordinary success in fine seasons to be able to repay your remissions. Then, again, you have to trust to a native official for the considerate recovery of that remission at the fittest period.

2387. How is the assessment made?—There is first a scientific survey of the whole area of the village; I believe there is a revised settlement now going on, which appears to be a just one, and which is very moderate, which means of course that there will be a considerable sacrifice of revenue by the Government.

2387. It

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2388. It is made by European assessors?—By European surveyors first: that gives them the whole area of the village; and now the custom is, I believe, to divide it arbitrarily among the ryots, or cultivators, according to their means. If a man has one pair of oxen, he has so much land, if two pair of oxen, so much, and so on, up to a certain maximum of 10 acres or so; he takes upon himself the cultivation of that land, and the payment of a certain revenue for a year, and he is to hold it for as many years as he likes, provided he pays that amount of revenue; if it is moderately assessed, he goes on from year to year, but he never is better than when he began, and very often is worse, and when he begins to decline, there is no one at hand to help him; there is no zemindar over him who can help him.

2389. What is the system of revenue which prevails in the North-Western Provinces?—There has been a new settlement carried out there of leases on long terms to zemindars of different calibre, some holding a single village or so, and others being the many heads of a village.

2390. Was that settlement laid down on the principle recommended by Mr. Bird?—I believe so, but the principle was not new; it was much older than Mr. Bird's time; it was a very ancient mode of assessment of land revenue in India.

2391. Has that worked well in your opinion?—I think it works remarkably well, when in forming your assessment of revenue with the heads of villages, you have not infringed the rights of any zemindar, who formerly held above them, called a talookdar I distinguish the village settlement from the other by the term talookdar. Where you have not interfered with any other rights, I think it is the best possible system of land revenue assessment. You find men there who are acknowledged heads of villages, who have been so for centuries, ready, if fairly assessed, to take up a lease of a village for 30 or 40 years. That leaves a profit enabling them to accumulate some capital if they choose. A Hindoo will, but a Mahomedan seldom will, whatever terms you give him. Therefore we do, I imagine, as our predecessors have done, assess them heavily and keep them to work. A Hindoo, a thrifty man, may be indulged with a lighter assessment, and will accumulate capital, which he will lay out in the improvement of the land. Such is the condition of many villages. I believe, generally speaking, it is so in the North-Western Provinces of India.

2392. What was the condition of the people of the North-Western Provinces when you quitted that part of the country, as compared with their condition when you first visited those provinces?—I have been so little in those provinces for many years, that I can hardly state, still I had an opportunity of observing what was their condition in some of the districts. They were generally, as far as I observed, a thriving people, both agriculturists and traders.

2393. Was their condition the same, or had it deteriorated or improved?—It had improved, certainly. Lands were reclaimed to a vast extent where they had been unreclaimed before, that is the best proof of improvement. I do not know what the area which has been brought under cultivation in the last 10 years has been, but it must be and ought to be very extensive.

2394. Were not the villages in the Delhi district fortified when we first took possession of that part of the country?—Yes; on the decline of the Mahomedan Empire every village found it necessary to repair the defences which had existed, or to erect new ones if they had none before. All upper India was covered with bands of horsemen, Sikhs dashing at everything, and the inhabitants only repelled them by erecting little citadels in the middle of the villages, with watchmen aloft on a high look out.

2395. What is the present state of that part of the country?—The bricks which formed those redoubts are all taken for the houses of the cultivators; there are no such defences now to be seen in the British provinces.

2396. The districts are cultivated and quiet?—Highly cultivated.

2397. Are the jungles disappearing?—Yes, there is not a vestige of them near villages; the North-Western Provinces are bounded by heavy forests under the hills, but cultivation is extending into them till it has in some parts gone up to the very foot of the hills.

2398. It has been stated that within a few years lions prowled up to the gates of Delhi; are there such wild beasts now?—The last party I saw there take the field for lions was in 1834; they went 300 miles and they did not see one, and came back again.

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2399. Are the zemindars in the habit of assisting the ryots in case of the failure of their crops?—Yes.

2400. In what way do they assist them?—They will assist them with funds, or with seed, corn, or with oxen: that is the advantage of the village or zemindar settlement; the zemindar will not see his ryots break down; why should he? if the ryot is hard pressed, and can get no assistance, he will take his bed in one hand, and his light plough on his shoulder, and go off to another village.

2401. In Bombay there is no power in the Governor, or anybody else, to give such assistance?—No, certainly not; the collector will give assistance; it is a heart-breaking thing for him to see his village deteriorating; he applies to the Government, but the Government knows that if the money goes to a ryotwar village, it goes for ever.

2402. Mr. *Macaulay*.] Would there be any insuperable difficulty in establishing in the Bombay Presidency the system of village settlement?—I should like to see it tried. The difficulty, perhaps, would be in calling forth now those who may formerly have held it as village managers; still you might select from among the present ryots some who would undertake it, but in that selection would be the difficulty. Of course the best thing to look for would be some one who would have a claim to the lands, and who would say, "We own all the lands and will take them, and pay you revenue for them." In Bombay the whole thing has been frittered away among the cultivators, and I cannot conceive any mode of bringing that to bear except asking the ryots to elect their own representatives, and getting them to take the settlement upon their hands. Whether that would succeed or not, I do not know.

2403. Did not you mention in a former part of your examination a class of zemindars in the Bombay Presidency to whom the Government ought to look as agents in matters of police?—If I spoke of a class, of rank approaching that of zemindars, it may have been of deshmookhs or village officers, but the class I alluded to as belonging to police is the numerous body of hereditary village watchmen.

2404. Mr. *Ellice*.] The rent or revenue taken from the zemindars, or from the ryot population in India, is taken for various periods in different provinces, is not it?—Yes.

2405. Would not it be advantageous to commute the whole of it into a quit-rent, so that the population may be encouraged to extend their improvements without the fear of an additional rent being required from them?—That is an experiment I should like to see tried, but I would not apply it except as an experiment here and there.

2406. You think it would be advisable to try such an experiment?—I see no objection to it.

2407. Would not it have the same effect in India that the extinction of tithe had in this country, that people bringing new land into cultivation, or improving the cultivation of land already cultivated, would have the advantage of their own improvements without the payment of any further tax?—It might have that effect; the people now have that advantage in many settlements, where nothing is levied prospectively on land which the parties may reclaim, and which at the time of the settlement was unreclaimed.

2408. That has been found conducive to the improvement of the country, has it?—No doubt of it.

2409. Mr. *Cobden*.] You have stated that one difficulty attending the ryotwar system in Bombay arises from the wide-spread and general corruption of the native population, and that where you lose the services of Europeans, you find it impossible to obtain faithful administrators; how do you reconcile that with the statement you made in the former part of your evidence as to the general morality and truthfulness of the population of India?—I do not think I made use of the term wide-spread corruption of the population; I certainly meant nothing of the kind; I meant that the under-paid native agents whom you must use in consequence of the want of funds to obtain others, are not to be trusted with the disposal of the money remitted from the revenue, or to carry out the ryotwar system in all its minute parts.

2410. If the mass of the population be truthful and honest, where is the difficulty in finding honest agents among them?—You impose laborious duties upon them, and do not give them adequate salaries to maintain themselves.

2411. You

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2411. You consider that the difficulty arises from the inadequacy of their payment?—Yes. If you could find agents in sufficient numbers, and pay them adequate salaries for strict care of every village under the ryotwar system, you might make it a very perfect thing; I look upon that, however, as an impossibility, and short of that I do not think it can answer.

2412. Do you think if the natives were paid in all cases the same salaries as Europeans, you would be enabled to find honest agents?—In time, when they are trained and educated to the habit of honesty, I think you may.

2413. Mr. *Mangles*.] Could the revenue in India bear the burden of such an agency?—Impossible.

2414. Mr. *Hume*.] You have stated that the present ryotwar system leaves the cultivators in a state of beggary, and you have expressed a doubt how far the village system could be adopted; is there any other step which you could recommend as a means of improving the condition of the cultivators in Bombay?—I do not think I expressed a doubt as to the village system; it is the system I have always advocated and adopted.

2415. Is that a system which you would recommend?—By the heads of villages, unless you thereby infringe the right of any superior grade of landowner or talookdar.

2416. In that case you would go to the talookdar, the original head, and deal with him?—Yes.

2417. Sir *C. Wood*.] Did not Sir Thomas Monro introduce the ryotwar system with the view of protecting the ryots against the oppression of the zemindars?—Yes.

2418. The ryotwar system, as introduced by him, was a permanent settlement, with a maximum rent?—Yes.

2419. Whatever annual settlement there may be, it is always somewhat below that which was settled by Sir Thomas Munro?—It has been so, for the most part, I believe.

2420. Was not his settlement a very considerable reduction indeed below what had been paid by the same parties before?—I believe it was. If you had been able to retain a Sir Thomas Monro in every ryotwar village, and could have fixed him there in his tent as he used to place himself among them, you would have had those villages all thriving, and now capable of paying an increased jumma.

2421. Did not you say that the ryotwar system, fairly carried out, would be the most perfect system for collecting the revenue in India?—I said it would be an admirable system: I did not say the most perfect. I do not see by what means ryots can accumulate capital for the improvement of the country.

2422. Is not the village system of settlement which has been recently carried out a system by which a number of persons are rendered jointly responsible, and liable for each other?—I believe by the latest settlement that is so. It does not follow, however, that in the village settlement each should be responsible for the failing share of another. Objections are entertained to that, but, generally speaking, it can be done, and has been done.

2423. Is not that the system which has been recently carried out in the North-Western Provinces?—Yes, I believe it is.

2424. And with great success?—Certainly.

2425. Is not the consent of all the owners or cultivators of the ground necessary to establish a system of that kind?—The cultivators have never, under a "village" system, under our predecessors, been considered to have a voice in anything, except the possession of their own strips of cultivated land; there they have a hereditary right; they have a hereditary right to cultivate it, paying that tax which is recorded in the village accounts. No zemindar can take more from a ryot than he is bound for in the books of the village: if he attempts to do so, the ryot will make himself heard, whether by the native or European authority.

2426. Is not the system which has been carried out in the North-Western Provinces, that a certain number of parties cultivating a village are jointly responsible to the Government?—I imagine that the cultivators themselves are not responsible to the Government directly, but the heads or zemindars of the villages are.

2427. They may employ persons under them?—They must employ persons under them; they must employ those very persons under them.

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2428. How are those persons selected, who are responsible to the Government?—You find them there, the acknowledged heads of villages, and they have been so for ages. In a Hindoo village, they have been there as Hindoos for many ages; in the case of the Mahomedans, they have had possession of villages which have been apportioned among a fraternity, representatives of the fraternity holding the village down to the present day.

2429. They have a hereditary right to cultivate the whole village, with people under them having subordinate rights to them?—Yes, with those people under them, generally speaking. There is also another class of hired labourers, as there is elsewhere, which they introduce sometimes. Those people have not the same hereditary right of cultivating the same land, from year to year, which the other cultivators have.

2430. Are there any persons in the villages, where the ryotwar system is established, who are at all in the position of the persons to whom you have been referring in the North-Western Provinces?—No.

2431. Do you think it would be possible to obtain persons of that description in those villages where the ryotwar system has been long established?—I apprehend not without difficulty.

2432. In what manner would you suggest the possibility of any change from the ryotwar system, to such a system as you consider to be a more desirable one? —I would first of all give a fair trial to the settlement, which I believe is now being carried out by some very able revenue officers, and see what the effect of that will be. It is on a reduced rate of revenue, but it is expected that it will restore the villages very much, and it may have that effect. I may be prejudiced against it, and I should wait to see the result of that settlement, and if it broke down, I would devise anything as being better.

2433. Is not the settlement now going on in Bombay for a certain number of years, as it is in the North-Western Provinces?—I think it is from year to year, but pledging the Government for 30 or 40 years; it is optional with the other party; they may abandon it in any year, but the Government are pledged for the whole of the 30 years.

2434. The Government fixes the maximum rent for 30 years, but the other party is not bound beyond a single year?—I think that is the case; I do not speak with confidence, because it is some years since I was there. It appears to me that that system gives them great advantages; if they can thrive under any ryotwar system, they ought to thrive under that.

2435. That system is in progress throughout the whole of the Presidency of Bombay, is not it?—I believe it is, or the greater part of it.

2436. Viscount *Jocelyn*.] In those native states with which you are acquainted, which is the system adopted, the mouzawar system or the ryotwar system?—They have all descriptions of settlement.

2437. Generally speaking, do you consider that the people are more highly assessed under the native governments than they are under the British Government?—I think they are assessed quite as highly, but the remissions are more liberal, and assistance is more promptly given under the native governments; their native agency is more trustworthy than ours. The native agent, under a native government, will be more careful to bring to the notice of the chief the condition of a failing village, because he serves with more zeal, and he serves with more zeal because he is better rewarded.

2438. You think under many of the native governments the ryots are in a better condition than under the British Government?—Under a native government the condition of the ryot is as easy, I do not say it is more easy. At certain periods of disaster and famine he is more promptly relieved; that is the sole advantage he has over the British ryot.

2439. Take the case of Sattara, with which you are acquainted; in Sattara, under the old native government, do you consider that the ryot was in as good a position as he is under the Company's government?—Judging from what I saw of Sattara, I should say he was; it was a good government altogether.

2440. Mr. *Elliot*.] With regard to the different state of the ryots under different tenures, can you state whether the ryots on rent-free lands are materially better off than on land paying revenue to the Government, whether under the system which prevails in the upper provinces or under the zemindary system in Bengal?—The condition of the ryots on rent-free lands varies very much according to the humanity or otherwise of the La-khiraj-dars; some of them

are

are great tyrants, and some are very benevolent; but for many years past the La-khiraj-dars have been restrained from oppressive exactions.

2441. You cannot take as a criterion of the state of the ryots the amount of revenue which is paid to the Government in a settled state in Bengal, can you? —No, not in Bengal.

2442. Can you in a village settlement in the upper provinces?—I think I could tell whether a settlement sat easily or not upon a whole village, from the condition of the ryots.

2443. If the ryots holding lands under a La-khiraj-dar are frequently equally ill off as those holding under a zemindary tenure, it is quite clear that you cannot draw a correct inference as to the state of the ryots from the fact of the amount paid to the Government?—No.

2444. Sir *T. H. Maddock.*] Was the ryotwar system introduced into the Bombay Presidency by the British authorities?—It was introduced by us in the form in which it now subsists: that is, without reference to the native officers, the desmooks, to the degree to which they controlled it under the native government.

2445. In what year was it introduced?—I do not recollect the period of the first settlement.

2446. The ryotwar system is not universal throughout the Bombay Presidency, is it?—It is almost universal.

2447. Mr. *Cobden.*] Under the ryotwar system the cultivators of land are occupiers from year to year, you say?—Yes.

2448. But they are not liable to removal if they continue to pay their rent? —No.

2449. Are they perfectly safe from removal for any other cause than the nonpayment of rent?—They ought to be.

2450. Are they so?—I consider that they are perfectly secure.

2451. What are the exceptions upon your mind which induce you to say, "I consider"?—It never entered my mind that they were removed from any other cause.

2452. Are they as safe in the possession of the land, provided they continue to pay the assessment, as if the land were their own?—I consider that they are quite so; the contrary can only occur through extreme negligence on the part of a collector.

2453. How would such negligence affect their tenure of the land?—Supposing a zemindar were to eject a ryot from his holding, that man of course would make himself heard by the collector; he would bring forward his grievances, and that would be attended to, and he would be restored if he was not in fault. His rights are secured by the amount of his assessment being recorded in the village account, beyond which no zemindar can exact anything from him. Occasionally zemindars will attempt it, and then the next thing that occurs is that the man forthwith lodges a petition, to say that an excessive rate has been levied from him; that is inquired into, and if the collector does his duty, that is to say, if he is watchful in his office, and his door is open, that is a perfect check upon all exactions of the kind.

2454. Mr. *Hume.*] Is not there in every village a record of all portions of land, and to whom they belong?—There is a record of every rood of land, and of everything which is paid upon it.

2455. Having regard to the protection which the man has under the patell register, as long as he pays the rent assessed he cannot be removed?—He cannot.

2456. Is not it the duty of the patell officer to see that each portion of land recorded in the register is properly cultivated and attended to?—Yes.

2457. And to report to the head of the village who is the responsible party in respect of all proceeds to the state?—That is his duty.

2458. Do you think that that would be the best system that can exist?— As regards the tenure, I do.

2459. Sir *C. Wood.*] Under the existing ryotwar system, is not the ryot, as long as he pays his rent, certain to retain possession of his land, and free from all liability to be dispossessed for any other cause whatever?—Except crime.

2460. Are the ryots, under the zemindars, equally secure of the tenure of their land?—Equally secure.

2461. Has not it been necessary in the course of the last few years to pass many

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many Acts in order to protect them, they not having been sufficiently protected without those additional Acts of the Indian Legislature?—It may have been so; but instead of that, I would have passed an order to remove a collector, under whose charge such a thing took place, which I think would be as effectual a means of checking it.

2462. Mr. *Hume.*] In your opinion, how far are the duties which arise under the treaties existing between the native chiefs and the East India Company mutually understood?—In some of the treaties between the British Government and the native chiefs there has been considerable latitude, and perhaps ambiguity of expression, such as is found in treaties in other countries, and perhaps owing to that there may have been misunderstandings on the part of the chiefs, and what have been considered by them to be encroachments on the part of the British Government, such as they did not contemplate when those treaties were drawn up.

2463. With a view of preventing that misunderstanding and discontent which occasionally arise from ambiguity in the language of the treaties, what course would you recommend to be adopted?—With regard to future treaties, I would remember those embarrassing consequences arising from ambiguous terms, and be very particular in the language which I used.

2464. Can that be carried out?—Nothing is more difficult, but I should think that by greater consideration than has been paid to drafting some of those treaties, which generally speaking are drafted at the conclusion of a war, when there is a great deal to do and great anxiety to bring things to a termination, you might avoid all terms which could lead to any misunderstanding.

2465. With regard to the existing treaties, what course would you recommend with a view of preventing those unpleasant differences which have arisen from their ambiguity?—I have never considered the subject, but I should say that if you have pledged yourself to anything which you now find you cannot conveniently fulfil, you can rescind it only with the goodwill of the other party; if you wish to maintain your character for good faith, you must either devise some equivalent, or leave things as they are, and bear with the embarrassing consequences.

2466. Would not it be desirable to devise that equivalent with a view to the maintenance of future peace?—If it could be done with the consent of both parties it would be most desirable.

2467. Viscount *Jocelyn.*] In most of those treaties there is a clause by which the native prince is bound to listen to the advice of the Resident?—Yes.

2468. Is he strictly bound to listen to his advice in all cases?—He is bound by the spirit of that treaty, but he is not further bound by the letter of the treaty, than that it would probably express the condition that he is to regard that advice. There is no penalty attached to it, because at the time of drawing a treaty of that kind you were not strong enough, or circumspect enough, to impose a penalty. You would have had to go to war again a month afterwards.

2469. Does not that often put the Resident in an unpleasant situation?—Of course it does.

2470. Mr. *Hume.*] Should not something definite be done on the subject, and some rules be laid down for the interpretation of such treaties?—It would be desirable, but they would feel that they had got you at a great advantage.

2471. Mr. *Hardinge.*] There have been many instances of Rajahs and native princes refusing to listen to the advice of the Residents, have there not?—Yes, there have been.

2472. Viscount *Jocelyn.*] Suppose in a case where there is a Resident at a native court with which there is a treaty by the British Government, drawn up as they usually are, an aspirant to the throne makes war upon the native prince, does the Resident consider himself justified in interfering on behalf of the prince who is upon the throne?—He would always, I think, consider himself entitled to interfere by advice, but it very much depends upon the terms of the treaty. Those treaties vary in their terms; in some cases it is compulsory on the British Government to interfere in such a domestic feud. A case which is in point is, I hear, now occurring at Bhawulpore.

2473. How did the Resident act there?—There was no Resident upon the spot: there is a native agent there, but he was absent. The Nawab having disinherited his eldest son, the second son succeeded; now the eldest son has raised

raised the standard, and is going to strike for the throne; that may be a case for the British Government to interfere. Sir *G. R. Clerk*, K. C. B.

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2474. Under the Order of Lord William Bentinck, how far do you consider a Resident is justified in interfering on behalf of the ruler of the State to which he is attached?—The Resident must be guided generally by the terms of the treaty. Lord William Bentinck would put his construction upon the terms of a treaty; another Governor-general might put another construction upon it. The Resident, of course, would be guided by the construction which the Government put upon it in each case.

2475. Do not you think that the fact of different constructions being put upon the same treaties must give rise to an idea that there is bad faith on the part of the paramount party?—And great inconsistency, and that is the prevailing feeling.

2476. Mr. *Hardinge*.] Do you see any remedy for that?—No remedy but that which I have already suggested, namely, that where the terms are troublesome to ourselves we should revise them if we can, but that can only be fairly done with the consent of the other party.

2477. You can lay down no definite or general rule?—No.

Jovis, 7° *die Aprilis*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Mr. Macaulay.
Mr. Elliot.	Sir R. H. Inglis.
Mr. Mangles.	Sir George Grey.
Mr. Cobden.	Mr. J. FitzGerald.
Sir T. H. Maddock.	Sir Charles Wood.
Mr. Edward Ellice.	Mr. Newdegate.
Mr. Labouchere.	Mr. Milner Gibson.
Sir James W. Hogg.	Mr. Hume.
Mr. Bankes.	Mr. Vernon Smith.
Mr. Spooner.	Mr. R. H. Clive.
Mr. Lowe.	Lord Stanley.

THOMAS BARING, Esq. in the Chair.

Sir *Erskine Perry*, called in; and Examined.

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2478. *Chairman*.] WILL you state to the Committee the situations which you held in India, the length of time you filled them, and what opportunities you had of forming an opinion as to the working of the judicial system there?—I was Judge of the Supreme Court of Bombay from April 1841 till November 1852, and the last 5½ years I was Chief Justice. During the 11½ years I was in India, I used to occupy all the vacation time I had, which was very considerable, in going about different parts of India, passing through the country, generally speaking, at marching pace, 12 or 14 miles a day. I took all possible opportunities of going about to visit the law courts, and became acquainted, as I necessarily should, with the members of the judicial service of India. I also passed three months in Ceylon during one of those vacations, where I employed my time in the same way, especially directed thereto by knowing that a different judicial system had been introduced there. I took every opportunity of visiting the law courts in that island, and saw a good deal of their working.

2479. The Committee have had a statement of the judicial systems now in operation in India; they wish to know your opinion of the working of those systems; what is your opinion, in the first place, of the operation of the Supreme Court; does it give general satisfaction in the part of India which you are acquainted with?—The system of the Supreme Court is founded on

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on a totally different principle to that of the Company's judicial system; it has had very many faults attending its operation. It was introduced 70 or 80 years ago, before any investigations into the law of procedure had commenced. The system was introduced into India, as I may say bodily, from this country; that is to say, as the system was intended to provide for all the legal wants of the community among whom it was placed, it was necessary to apply all the jurisdictions in operation in this country: but instead of framing one general system of procedure applicable to those wants, it was found the simplest way, and in point of fact no other mode had been then recommended by anybody, to adopt all the different forms of all the different courts in England. For example, the equity system of the Court of Chancery was adopted, the common law system of the Court of Queen's Bench was adopted, the system in practice in the Ecclesiastical Courts and in the Admiralty Court was adopted, and the system from time to time of Insolvency and Bankruptcy was also adopted. Therefore, those judges had to administer the whole of the law of England according to very difficult and complicated modes of procedure, the consequence of which was that the complication involved obscurity and expense; and also the fees that were permitted to be taken by the officers and by the attorneys of the court were very high; I believe about 100 per cent. higher than they are in this country. The consequence of all those facts which I have adverted to has been to make the course of procedure of the Supreme Court extremely expensive, and therefore of course very defective. But notwithstanding all those defects and the defects of the English law generally as respects procedure, which have been from time to time during the last 20 years reformed, my own opinion is, that the system of the Supreme Courts has been extremely satisfactory to the natives among whom they have been placed. They are formed upon the model of English courts of justice, which I myself believe to be the most satisfactory system ever yet established in a civilized country. The Supreme Court, administering the law in the same public manner and under the same checks of an able bar and of publicity, have been enabled, *cæteris paribus*, to give the same satisfaction to the community as the courts of justice in this country do to the community of England, and I think there will be found many facts to corroborate my opinion, which is founded upon the opinion of the native communities to whom I refer.

2480. The proceedings are carried on in the English language?—They are carried on entirely in the English language; it would be impossible at a presidency town, and especially at Bombay, to carry on the proceedings in any other language.

2481. Will you state to the Committee what remedies you would suggest for the purpose of removing the defects you have referred to?—A good many of the defects are now in course of being remedied, and if more assistance had been given from the Home Government most of those defects would even now have disappeared. The first obvious conclusion to be adopted is one upon which I see jurists in this country are all unanimous. Lord Brougham, and Lord Campbell, and others, treat it as absurd that the same judges should be sitting to hear a motion in equity, and 10 minutes afterwards should be sitting in law cases, a case being bandied about from one side of the court to the other. A case arising in law is found perhaps to involve principles of equity, and it is sent over to the other side of the court, as it is called, and then when that cause gets to the equity side it is found that it involves principles of law, and it is therefore sent back again. I observe that all the great jurists in this country treat that as an absurdity; therefore the first obvious remedy would be to have all causes come on in the Supreme Court of Justice, on whatever side they arise, in the same manner; they all arise out of the same subject matter, legal difficulties between individuals; I would refer them all to one system of procedure. That scheme was proposed some years ago by the Law Commission, as other schemes were, but from want of strength, I think, in the Executive Government such schemes were never carried out.

2482. You would introduce the principle of a fusion of law and equity, the judge deciding cases of both descriptions without separate appeals?—Without going from one side of the court to the other.

2483. Would that remove the objection which you have mentioned, arising from the complication of the system of law, and the consequent delay which occurs?—The delay is not so very great in the Supreme Courts; it is the expense

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expense which is the principal difficulty, and the ignorance on the part of the practitioners as to the proper mode in which to shape their case. It is very often doubtful whether such and such a matter of litigation belongs to law or to equity. There are flagrant examples on record of a case pending for years on the law side of the court, and being referred to the equity side, and then when it comes on in equity being discovered to be a law case.

2484. How would you remedy the evils arising from expense?—The judges have it, in some degree, in their power to cut down the fees, but there is a constitutional objection to the judges exercising much legislative power, and also there is the *esprit de corps*, which one can easily imagine to exist, operating to prevent their interfering largely with the emoluments of the practitioners, with whom they are daily coming into connexion; therefore there is great difficulty in the judges undertaking such a task; it seems to be more fit to be undertaken by the Legislature, and I should think therefore that it belongs to their office to interfere. One of the main questions connected with colonial litigation is, whether the division between advocate and attorney should exist. The Committee is aware that in early days the attorney exercised a very subordinate office in the conduct of litigation. He was a mere clerk who looked over the transcripts and entrances on the record, and was paid accordingly; the barristers supplied the mind, and had the bulk of the emolument; but in these days the attorney very often is just as well educated as the barrister, and knows just as much of the law; very often he is in exactly the same position of society, one brother being a barrister, and the other an attorney. Accordingly the attorney requires to be as largely retributed as the barrister, but when a native has to pay those two *honoraria* of course it is very onerous upon him, and therefore it is a serious question for the Colonial Government whether those two functions should not be joined in one as they are in some colonies, and as they are in America. In a country like India, where the natives are comparatively poor, it becomes of very great importance.

2485. The Committee understand you to say that the decisions of the Supreme Court are guided by the laws of the various courts existing in England; is that system satisfactory, or would you have a special code for the guidance of the Supreme Court?—That question is very closely connected with the great question of a code for India. The conclusion I have arrived at is a very simple one, but it embraces the whole subject. The Supreme Courts at the Presidencies administer the law of England with the exception, so far as respects the Gentoos and Mussulmen, of the law relating to their successions and contracts. The effect of that has been to introduce the English law entirely, so far as it is applicable, into the Presidencies of Calcutta, Madras, and Bombay. Those three Presidencies comprise the greatest wealth and the greatest intelligence among the native community. The mode in which that law was introduced was by a clause in the Charter of Justice, not expressly saying the English law shall be adopted, but impliedly so; and reserving to the Gentoos, as they are called, and the Mahomedans, their laws of contract and their laws of succession. But in practice the English law, as to the first branch of the exception, has been administered, the law of contracts. It is obvious in all civilized countries, and the enlightened among the Hindoos are civilized, that the laws of contracts, except as to certain formal contracts, are very much the same. The office of a court of justice is to enforce contracts between man and man; therefore the English law of contracts has been tacitly adopted by the natives as an equitable rule to resort to in case of difference; but with respect to questions of succession, on which of course the people are very much interested to preserve their old customs, the Hindoo and Mahomedan rules have been exclusively followed by the Supreme Courts. Therefore the clause to which I am referring has had the effect of applying the rule respecting contracts taken from the English Code to every litigated question which arises in the courts of justice. The English Code therefore, with the single exception I have mentioned, prevails. The conclusion I draw from thence, which I say is connected with a large question, is, that as the English law has thus been introduced with so much ease and advantage, a similar rule applied to all India will obviate a very great many of the difficulties which now occur. If the English law with a similar clause, or perhaps a more carefully worded one, proceeding on our experience of the last 70 years, were thus introduced, you would supply to our administrators throughout India a simple mode of

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finding out what the rule is on every subject which can arise; they would find numerous compendiums of the English law on contracts and mortgages, and all those various questions which occur in courts of justice ready to their hands, and the introduction, so far from being objected to by the native community, would be found a very clear and lucid guide to them in all their legal difficulties. What the natives of India require is, that their own customs should be preserved, and their laws of inheritance and succession.

2486. You were understood to say that the conduct of the judges of the Supreme Court gave satisfaction, and inspired the natives with confidence?—I take that to be the case.

2487. With regard to the Company's Courts, will you state to the Committee what your general views are of their efficiency?—My knowledge of the Company's Courts is founded partly on casual visits I have paid to them from time to time, but chiefly from great intimacy with members of the civil service of India, especially the judicial service, and also from the reports of cases in the papers of the Sudder Adawlut, which I have always made it my duty to study when I could come in contact with them. My opinion of the Company's judicial system is very unfavourable to those courts; they have adopted almost all the evils of the English system, in my opinion, without any of the advantages. Wherever I go in India, I hear the civil service disparage the system, and I hear members of the Judicial Branch, especially the ablest men among them, denounce it also very strongly. The greatest friend I had in India, Mr. Lumsden, was a very eminent judge under that system, and afterwards judicial secretary to the Government. I lived in habits of great intimacy with him for years, and have had daily opportunities of considering all the points of the system; but my knowledge of the courts personally is confined to the visits I have occasionally paid to them while travelling in India.

2488. Is the impression upon your mind that the defects of which you speak arise from the system itself, or from the incompetency of the judges who carry that system into effect?—Chiefly the latter. I think, however, the system might be very much improved. The system in Bombay is better, I believe, than the system in Bengal. It was adopted at a later date. It was adopted under the guidance of a very enlightened man, Mr. Elphinstone, with the aid of a very able man, Mr. Erskine, the grandson of Sir James Mackintosh. The system therefore is an improvement on the system in progress in other parts of India; still the system is not nearly so simple and lucid as it might be; it is loaded with too many details, and too much complication of procedure.

2489. Is the result of your opinion that it would be desirable to introduce a complete change into the system, or are the improvements which are gradually being carried into effect, likely so to ameliorate the system as to render it unobjectionable?—I have attended to the systems which have been recommended for an improvement of the existing state of things, and none of them are satisfactory. I heard the very able evidence given in this room by Mr. Halliday, and I gathered from him that he would adopt a plan for the improvement of the qualifications of the Company's judges, namely, a revival of the office of registrar, in which young men had a jurisdiction in the first instance, gradually initiating them into the duties of the judicial office. Now, I confess, I think there are insuperable objections to that scheme. In the first place the registrarship was abolished years ago, I believe under Lord William Bentinck's government, because it was found that the arrears of judicial business were so great as to be productive of immense evil to the natives; accordingly native judges were appointed, and those judges, I think, the Committee will have discovered by the evidence they have already heard, have given great satisfaction by their mode of performing their duties, though they also are not nearly so well educated as they might be; still they have given great satisfaction on very small salaries in the offices they have been filling; that by itself would be, I should think, an invincible objection to restoring the office of registrar, which was not well filled before, and displacing those native judges who are doing their work so extremely well. Secondly, there is a still greater objection on jurisprudential views which I think ought to be stated. By sending a young man of 22 or 23 into a registrar's office and teaching him how to be a judge, by giving him the causes of very poor people to try, you appear to be sacrificing the interests of the poor for the purpose of educating your judges. Certainly my experience teaches me that summary jurisdiction

jurisdiction is the most difficult of all to administer. It requires more experience, and, therefore, more knowledge of what has been done before, more conversance with the rules of wiser men than yourself, in all of which a young man is deficient. In regard to summary jurisdiction in all states, but especially in a state like India, it is only experienced men, well trained men, who ought to be entrusted with it. The complaint which is made all over India, emanating from native sources, refers especially to that point, namely, the evil of what they call boy magistrates and boy judges.

2490. Would you suggest any change in the mode of procedure before the Company's courts?—I think that is one of the most urgent wants of India. Before you commence on a *corpus juris* code of laws, a simple mode of procedure applicable to all the courts, I think, would be the greatest boon which the Legislature could confer on India at the present moment. A simple mode of procedure is required, giving summary jurisdiction to certain authorities, giving a ready mode of appeal to the upper courts, which should be in use in all parts. I have had occasion frequently to consider the question, and I conceive such a simple mode as I suggest would be equally applicable in the Presidency town of Bombay, and to the enlightened Europeans and intelligent natives there, as to the jungles of Sindh and other parts of the country where you have only one administrator, with a very unintelligent population.

2491. Would not that render necessary the enactment of special codes?—One special code of procedure only, organizing the judicial establishments, stating the mode in which appeals shall be conducted, and regulating the mode in which litigants shall bring their cases before the judgment seat. We are recurring to those very principles in England now; every day we are simplifying the operation, and facilitating to suitors the mode of getting their grievances brought before the courts. If you look back to Indian history, you will find that, in her most enlightened periods, under her best sovereigns, exactly the same simple system prevailed that we are now attempting to introduce into this country. In one of the Hindoo plays Professor Wilson has translated, giving a picture of manners 2,000 years ago, and showing a great state of refinement, in one of the scenes a law court is introduced on the stage, and you see the proceedings which took place then: the judge, assisted by two assessors; the witnesses coming into court, giving their evidence *vivâ voce*, pleadings *vivâ voce*; women coming forward as witnesses, which is very much objected to now in the native systems; and full opportunity given to any one to come forward and make the full defence which he has to make. That is the same kind of system that we are now introducing into the county courts of this country, to the great satisfaction of the public: so in the native kingdom of Nepaul, which is a very flourishing semi-Hindoo kingdom, (the Committee is aware that the Nepaulese race is a mixture of Hindoos and mountaineers, with a native population also under them, the system of procedure is founded exactly on the same simple, and, I think, philosophical principles, principles dictated by common sense. So also among the natives, when they hold those punchayets that the Committee hear of so much, exactly the same system is in operation; therefore what I am suggesting is clearly in harmony with the wants and the intelligence of the people, namely, this simple system of procedure throughout all parts of India.

2492. Are you in favour of all the proceedings in the courts, both civil and criminal, being carried on by means of oral evidence?—Certainly.

2493. Would you be favourable to the introduction of a system of juries in India?—We use juries in Bombay, and in the other presidency towns, under the Supreme Court, in all criminal cases. These juries, in latter years, by a measure emanating, I believe, from Lord Glenelg, when he was President of the Board of Control, have been composed, a portion of them, of natives and the other portion of Europeans; certainly I found great facility in administering the law with such assistance. The elderly natives, who were first of all put on to the jury list, the test of whose qualification was a knowledge of English, and certain means of subsistence, were not very useful, but young men, educated during the last 10 or 15 years, have shown great aptitude for the office, and have very often been of great assistance in eliciting truth in complicated native inquiries; therefore my experience of native jurors is extremely favourable.

2494. Would you find competent natives ready and anxious to serve as jurors in the interior?—There is one mode of introducing natives of intelligence and

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experience on to the jury list, which would be most efficacious, namely, by associating them with Europeans of station and intelligence, as we do in the Presidency. The natives in the interior, of course, will be very unwilling to leave their employments and give up their time to the public service, unless they are remunerated, or unless they are treated with something like dignity, and a sense of gratitude shown for their services; but if you were to associate such men with intelligent European gentlemen in the Mofussil, efficient juries might be formed, I think, with great advantage. There is one body of men on whom you might draw for jury services with like advantage, namely, officers of the army, who are stationed in the Mofussil, in all the zillah towns especially, and who really have very little to do; it is a system which has been in use in some of the colonies in early days, under circumstances somewhat similar to those now existing in India, and I have heard that their services were extremely valuable, as you would expect from men of such station. It will be remembered that officers of the army have judicial functions to perform in their court martial system, also under a very complicated mode of procedure, sitting, as they sometimes do, for 20 days, to try a case which would be decided in the Court of Queen's Bench in three or four hours. If you would associate with them three or four natives, of different localities, who are conversant with English, which I would make a test for admission to any jury list, you would secure the services of admirable coadjutors in the administration of justice.

2495. Why would you make it a test that they should be conversant with English?—It is the best test of educational progress. Our schools are spreading over the country; the English language is sought after as a means of advancement, and anyone who has attained a knowledge of the English language must be looked on as a man who is endeavouring to advance himself in the road of civilization, and as possessing certain capacity.

2496. Could you rely upon the independence of the verdict of a native jury?—Yes, I think so; if you have them associated with Europeans in this manner, not making the juries too large, and giving the power of challenge, so that in a great caste case you would strike out any notorious or leading members of the particular caste whose interests were on the tapis.

2497. Would you make the verdict of such a jury final, or leave the judge the power of revising it?—I maintain rather a different opinion from that entertained by some very distinguished men on this subject, Mr. Cameron for example, who introduced the system into Ceylon, and also Mr. Halliday, whose opinion I heard here. I would make their verdict conclusive; I think the great value of a jury is to put a final conclusion on a subject matter of inquiry involving much difficulty. If you get a jury composed of trustworthy men, on whom the power of challenge has been exercised, to give their decision after the case has been summed up by the judge, it is in all matters of conflicting evidence the most satisfactory mode which has been yet devised of putting an end to litigation. That applies principally, of course, to criminal cases, where the facts are simple. In Ceylon I saw the system in operation which has been spoken of, the decision of the juries there not being final, and I must say it seemed to me to work extremely ill; it gave great dissatisfaction to both the European and the native community. The native juries were treated with a great deal of indifference; you would hear the judges summing up to them to the effect, "It does not signify what your opinion is, though I must take it;" and setting it aside in that manner. The juries found that they were not treated with consideration, and they gave very little attention to the subject matter. I sat one day with a very distinguished native judge, a Cingalese gentleman, and observed the mode in which he conducted the system, treating the jury with great deference; and I could see that under his hands the system would answer very well, but it would require a great deal of care in carrying out the system. Attempts would be made to conciliate the opinions of the natives, such as you cannot expect in the ordinary administration of justice. Therefore I am clearly of opinion that if juries are instituted, their decisions must be made final, subject, of course, to a new trial, or to the correction, such as we have in England, of the errors of juries.

2498. You mentioned that juries were sometimes employed before the Supreme Court; is their verdict final there?—It is.

2499. Is unanimity required?—Yes; it is a jury of 12, and unanimity is required.

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2500. Sir *C. Wood.*] It is an English jury, is it?—It is a jury composed of six Europeans and six natives, or some proportion of the kind.

2501. *Chairman.*] You would allow the judge to charge the jury and explain the law, as is done in this country?—Yes; I would not only allow it, but enjoin it.

2502. Would not a native jury be generally guided by a desire to satisfy the judge?—I do not think that that is the case; I have had nearly 12 years' experience of the matter, and have found juries went very often contrary to my summing up; the grand juries would sometimes take the facts from me, and decide the law for themselves.

2503. In stations where Europeans are not to be found, would you have an exclusively native jury?—The sessions judge, in Bombay, holds the criminal trials in the Mofussil at what is called a zillah station, where Europeans are found; all the chief cases are tried before the sessions judge.

2504. Do you think there would be no inconvenience experienced on that account?—No.

2505. Would your recommendation extend to civil cases?—As to the Supreme Court at Bombay, of which I speak with knowledge, I have often thought it would be a very good thing to give to litigants in the Supreme Court the power of having a jury when they chose. If it were wished to have a jury summoned for the trial of a cause, it should be competent for them to do so; I do not see why in all cases where native jurors are called on, they should not be remunerated for their services, as a special jury is in this country. We remunerate special juries, at the rate of a guinea each for the trial, and if native services are to be called in, the same system I think would be applicable to them, and would produce very good juries on many occasions. This mode would be applicable to all causes which arise, both civil and criminal.

2506. Would you think it desirable to extend that system beyond the Presidency of Bombay and apply it throughout the country?—Yes, decidedly. Whenever I go in the Mofussil, and I have been a great deal in it, I find extremely intelligent Hindoos who are fully competent to enter upon these matters, subject to this condition, remuneration in some way or other, either by way of dignity and consideration, or remuneration in the more vulgar form of money. I think the system is quite applicable to the zillah stations, where Europeans are congregated, or to which regiments may be near, by an association of the natives with Europeans, which is the mode we have adopted in Bombay, and by a payment of five or ten rupees a trial, which would be a kind of *honorarium*, and would induce traders and merchants to give up their time willingly to a useful public service. I have been through the native states of Rajpootana, which are wholly independent of English influence, and wherever I went I found extremely able and intelligent men ruling the country according to their own methods, having on all subjects of conversation with them large and clear ideas, and who would be quite competent to all the duties which I have been referring to.

2507. There is a small cause court in Bombay, is not there?—Yes.

2508. Does that work efficiently?—It works efficiently, but not so efficiently as the small cause court, which it displaced about three years ago, very much for the same reasons which I have already referred to. The judges of the Supreme Court at Bombay had framed a small cause court on the very first establishment of that institution. It was found that the complicated system I have spoken of was very expensive to poor suitors, and that it operated as a denial of justice, and accordingly the first judge who was there, at the end of the last century, instituted a small cause court for the trial of causes under 15 *l.*, by summary procedure. That court gave great satisfaction to the natives, being presided over by the chief justice of the court. The jurisdiction was extended from time to time. Sir James Macintosh was one of the judges; Sir Edward West, another very able man, succeeded him, and extended it very much, and each extension gave additional satisfaction to the natives. Sir David Pollock, when he came out as chief justice, and myself, went on the same principle, extending it still further, and we gave it a jurisdiction of 600 rupees, or 60 *l.* We also endeavoured, by the aid of the Legislature, to get an act passed for the purpose of giving a small equity jurisdiction to the court, and introducing the uniform code of civil procedure, which I have ad-

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verted to. Such an Act was read a first time in Council, but so much clamour was raised against it by the attorneys at Bombay, who saw, I suppose, the beginning of an end, that the Court of Directors was probably intimidated from encouraging such a recommendation, and the small cause court, which now exists, was introduced in its stead, giving a small jurisdiction to the judges, and superseding the functions of the Supreme Court, by creating new judges in their place. Therefore my answer is, that though the small cause court is doing well, it is not doing so well as the court which it superseded.

2509. How was that court, which was superseded, constituted?—The court was the Supreme Court, sitting in summary jurisdiction, on rules framed by themselves, and sanctioned by the Privy Council, for the trial of small causes in an economical and summary manner; we sat once a week, and tried 15 or 20 causes a day.

2510. Is it your opinion that it would be desirable to maintain the present distinction between the Crown Courts and the Company's Courts, or to amalgamate them?—I think it is extremely desirable to amalgamate them, and one of the first institutions for the improvement of India would be to let all the justice of India run in the Queen's name, that is, even supposing the present system of double government is retained. That was a suggestion of Warren Hastings 70 years ago, who knew the institutions of India, I suppose, as well as any man who has ever been in the service, and I think it would be one of the first steps to the introduction of a good system, to allow all the judges in India to be Queen's judges, an appeal from them lying in all cases to Her Majesty in England. I would make every court a Crown court throughout the country. This system which I suggest would, to a great extent, prevent that collision of courts which now takes place; it would facilitate judicial inquiries from one part of the country to another; you would have such a scheme as prevailed under the civil law, namely, letters of request from one court to another, by which assistance might be given in conducting every inquiry; you would therefore secure many of the results of a good judicial establishment, getting uniform decisions at the smallest possible expense.

2511. An appeal to the Queen in Council would still be allowed?—Of course; that I suppose is connected with the supremacy of this country, and the power of regulating distant dependencies.

2512. You would unite the Supreme Court and the Sudder Adawlut?—Yes.

2513. Sir *C. Wood.*] Constituting one high court supreme in each Presidency?—Yes.

2514. *Chairman.*] The zillah courts would still remain?—Yes; if you want to introduce a good judicial system, I think you should put those zillah courts into complete harmony with the Supreme Court and even give those zillah courts, or rather the judges of them, an object of ambition in being appointed to the Supreme Court occasionally, so as to give the stimulus of the hope of promotion to all the judicial officers throughout the whole system, if they show themselves able administrators, and are esteemed by the natives and the Government.

2515. How would you select the zillah judges?—I have stated already that I do not think the Company's judicial officers are competent judges, and I do not think that their system will ever produce competent judges. In all the different schemes I have heard suggested I see either attempts to do what is being done now, which avowedly I believe has failed, or such an expensive mode of training for judicial offices suggested as to be wholly out of the question when we look at the embarrassed state of the finances of India, which does not enable you to give adequate salaries to those natives to whom you are obliged to entrust a great part of your administration. It seems to me that the system of the Company's civil service, which is extremely effective for producing one class of administrators, namely, collectors and political diplomatists, is wholly inefficient to produce good judges, and therefore as it fails in so doing (at least I state the result of my experience, which I believe is confirmed by a great many competent men,) I think you must resort to some better system for supplying a good judicial establishment.

2516. With whom would you lodge the selection of the zillah judges?—That would depend upon what class of men you resort to. It appears to me that we have now a very long experience to act on, and that we need not adopt any *à priori* theories, but look to the operation of events. What I would suggest

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as the result of past experience is that, comparing the two systems of judicial establishments in India, namely, the Queen's Courts where the offices are filled by professional men, and the Company's Courts, where the offices are filled by any men you can pick up from the civil service, the one has given great satisfaction to the natives, though attended by many defects which I have referred to, which are in course of reformation, and the other has not given satisfaction at all, nor is it capable of giving satisfaction. Therefore, having succeeded in making the Supreme Court satisfactory to the natives, I think you should apply the same process to those other courts which have not given satisfaction. I would suggest that as regards all courts where a European agency and supervision is required, you should resort to the same body from whom you select the officers for the Supreme Court in India, namely, gentlemen of the bar in England, Scotland, and Ireland, who have recommended themselves to the Government of the day.

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2517. You would appoint them zillah judges?—Yes.

2518. And you would appoint them through the Crown?—Yes.

2519. Would there be no inconvenience in their ignorance of the native languages?—That is an objection very largely insisted on by all the Company's officers. I do not deny that a knowledge of the languages and a knowledge of the customs of the people are most important ingredients in the fitness of a judge in India for his office; but in dealing with questions of this kind, no man who looks at the whole subject can deny that you have before you only a choice of evils. We are a nation of foreigners governing India; it is our duty to govern it in the best mode that we can; you must either appoint experienced judges to those offices which you think ought to be filled by Englishmen, or put young men into a station where they may acquire knowledge of the native language and customs, to fit them hereafter for that office; and I think the proposal I suggested is the least inconvenient of the two; I test it by experience. The Queen's judges who are ignorant of the native languages and customs give satisfaction, as I have described, to the native community; in point of fact, there is a much more important knowledge required in a judge than a knowledge of the native languages or the native customs, namely, a knowledge of mankind, and a knowledge of the principles of jurisprudence; and those are only to be acquired by age, and by special study. A judge in this country, going down into Yorkshire or into Cumberland, or especially into Wales, which I have often heard assimilated to India, has frequently to try questions involving native customs, and habits, and manners, which had never come before him, and which are wholly different from those prevailing in the class of society in which he moves; but he hears those matters spoken to by witnesses; he hears counsel bringing them forward in a prominent manner, and at the end of the trial he has to decide upon those matters upon the evidence before him, the evidence of the most skilful persons who can be collected. Exactly the same process has to be gone through in India; and I see no greater difficulty in an experienced judge trying a native custom there (as I have often had the task to perform myself) than a judge would have in dealing with customs of bundling, or anything similar to it, in Wales, which might be very novel and strange.

2520. According to the plan which you have sketched out, in what manner would the proceedings in the zillah courts take place?—The language in the zillah courts at present is the vernacular language of the country; they are presided over by an English judge, who, in the part of India to which I belonged, is very seldom conversant with all the languages, and is never conversant with them in a manner in which a judge ought to be who has to deal with evidence and with argumentation. The Committee is aware that in the Bombay Presidency, the languages prevalent are the Mahratta, Guzeratee, and Canarese, those are the three vernacular languages, but I think if you look at the almanacks and the returns, you will find that many of the judges are not conversant with those languages. The language of the courts therefore, to a very great extent, is Hindostanee, which is not the vernacular in the Presidency, except amongst a few of the Mahomedan population, but not largely amongst them. Therefore in point of fact, the language of business is not the language of the country. The effect of that is that the evidence is given before the judge in a language which he does not thoroughly comprehend, and it is written in a language which I may say he never comprehends, for the native language is so difficult to read,

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that it requires a most experienced native scribe to make out the document. The consequence is that the judge in the zillah court is seen to be reading not with his own eyes, and hearing not with his own ears; a Mahratta deposition, or a Canarese deposition is read off to him in Hindostanee by his native officer. The document, which he cannot read at all, is put before him; he does not look at it because it is written in this difficult cursive writing of the natives, where all the vowels are left out, which is most unintelligible even to learned Brahmins; therefore the spectacle is seen of the judge relying to a great extent upon his native officials for the conclusion to which he arrives. That is an evil pointed out by all those who have had experience in the service, and it is the complaint of the natives; whereas, in the other system of courts (and that is one of the points I ought to have noticed), the judge is seen, whether he decides rightly or wrongly, to decide entirely on the evidence, which everybody has heard, and everybody can judge of. Therefore, when the language of the zillah courts is in question, if it is decided to appoint European judges to those courts, I am clearly of opinion that for the due administration of justice the English language ought to be the language of business. The zillah courts in the Bombay Presidency, I think, are eight in number. The judges are the chief judges of the country; they are the chief criminal judges, and they are judges in appeal from all the subordinate native courts. They sit at a zillah town, which, as I said before, in our Presidency is always a large capital, with Europeans belonging to it, and there is as much publicity thrown over their proceedings as is possible in the state in which India is. The English language is now the language in which those judges are obliged to record their decisions, and which they use in sending up a case to the Sudder Adawlut. If you appoint professional men, such as I speak of, the object of course is to introduce the greatest amount of publicity, and to create the greatest check upon them possible in the administration of their functions, and the use of the English language of course enables the Government, and enables the authorities at home to exercise that vigilant check. The members of the Government, or the Privy Council, or the President of the Board of Control, can, in glancing through the proceedings, see at once what the course of the evidence has been, and what the judgment of the Court is; therefore, with the least possible expense, you have a record of the proceedings in each case transmitted to the Court of Appeal, and transmitted home when needful. The judge, also, has an instrument of logomachy in his own hands, his own language, with which he is able to meet, of course, the advocates at the bar, and deal with the evidence. Therefore, so far as English administrators are concerned, there can be no question whatever that the English language is the proper language for our officials to use in the transaction of business. But then there remains the very important consideration how the natives will be affected by it; how you will supply a native bar, and how you will make the proceedings which take place in English intelligible to the native public, whom you have to endeavour to attract to your court. After much consideration of the matter I do not think any difficulty at all occurs on this point. In Bombay all the observations which I make are founded upon my own experience there, though I believe Bengal is equally favourably situated, and perhaps more so. You have at present a large and increasing class of young men who are educating themselves in English to fit themselves for the Government service, and as young men do in this country, for advancement in life generally. Those men are most available for the offices of vakeel or advocate, and for the situations occupied by the native judges, whom you are now largely employing; and I feel no doubt that if an institution were adopted to the effect that in three years the proceedings in all those zillah courts shall be conducted in English, you would have a most able bar from the native advocates or vakeels, who would be present rendering their services to the European judge; but then it is said, and this was an argument of Lord Auckland (which has been very much relied on) when he abolished the Persian language as the language of business, which was the language of our predecessors in the Government, and introduced the vernacular language in its place, that the proceedings in courts of justice ought to be in a language intelligible to the people. No doubt, *cæteris paribus*, no one will dispute that argument, but in practice I think it will be found that if the evidence in every case is given *vivâ voce* in the native language, and interpreted to the judge on the spot, the proceedings are just as intelligible in the main to the body of spectators

spectators and the audience as they would be if the business were conducted wholly in the vernacular tongue. The audience hear every piece of evidence which is given, and they see the effect which it produces upon the tribunal to which it is addressed, either the judge or the jury. I form that opinion from observing the eagerness with which the natives attended the courts of justice in Bombay when any trial of interest was going on, and their readiness to appreciate everything that was said, and to understand quite clearly the grounds upon which every decision proceeded. They are not able, of course, to understand the arguments of counsel or the reasonings of the judge; but those are understood by the advocates who are present, and by the enlightened public to which such reports go forth; and, I believe, if you consult your own experience, that is all that takes place in an English court of justice. The audience on the back rows of the court do not understand the references to Barnewall and Cresswell, or the logical arguments which are put in a very compendious form; but the bar understand them, and if the judge is wrong they take down any expression which he may have let fall, and appeal upon it. Therefore, I say, that the interests of the natives will not be injured. On the contrary, they will be furthered by introducing the English language as the language of business into those few superior courts in the provinces. In the courts of first instance which are scattered over the country, of course the language of business will be the vernacular language. Advocates will not be there to conduct the inquiry; the judge must do nearly all himself; and of course he must deal as the judges in the county courts do here with the litigants face to face.

2521. Would your idea be to examine native witnesses in English?—No. The mode in which native witnesses are examined is this: a witness is put into the box; a question is addressed to him in English, which is interpreted by an interpreter sitting by him. While the question is being put the judge writes down the answer to a previous question, and long before the judge has finished the answer to the first question, the answer to the second question is forthcoming; therefore no time is lost in the proceeding.

2522. Can the court and the barristers rely upon the faithful interpretation of the questions and the answers?—Undoubtedly; so many persons are in the court who are acquainted with the language. In our court, for example, our interpreters are men of the same high character as those whom Sir Edward Ryan alluded to the other day. They are admirable interpreters; but sometimes they are wrong in the interpretation of some word. One finds immediately from all parts of the court a correction of the expression, and a further investigation takes place.

2523. The Committee understand you that in the zillah courts and upwards you would have the English language solely employed?—Yes.

2524. Below the zillah courts, in all civil courts of the first instance, the native language would continue to be used?—Yes. The practice which I am recommending for the zillah courts is creeping into the Sudder Adawlut; the Sudder Adawlut, which is the native Supreme Court of the presidencies, is by law to employ what ought to be the vernacular language of the country; but in Bengal and in Bombay, certainly in Bombay, it is Hindostanee. I was present in the court in Bengal, and I heard an English pleader commencing his address in Hindostanee; but the result was extremely absurd, for so many English forms of expression were obliged to be resorted to, that insensibly the discussion between the judge and the advocate broke into the English language, with which they were both familiar. I think either Mr. Halliday or Sir Edward Ryan stated the other day here, that the English language was coming very much into usē in the Sudder Adawlut in Bengal; that it is so in Bombay I have not the slightest doubt. I know that European advocates go there, and conduct a great deal of the business there, and know no other language but English.

2525. You have mentioned in your evidence that you believed the natives would soon learn English sufficiently well to practise before the zillah courts; would you require from natives practising the law any previous legal education, especially if new codes were introduced?—Certainly; it is most desirable that there should be the institution of a law college in all the presidencies; it is one of the first institutions which I think a wise Government would establish there. The subject has been under discussion for some time. I think from

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Bengal some such institution was recommended: and from Bombay I know, for years past, we have been strongly enforcing upon the Government the propriety of establishing some institution for the education of native judges and the native bar. All the judges of first instance at present are natives, and it was pointed out that it was unwise to have no special institution where the principles of the law could be taught, and that therefore such a want ought to be supplied. So also as to the English bar. It is competent to a native to come to the English bar, and to be made Lord Chancellor, I believe; but to get the education, or to go through the forms rather, for it is not education, which enable a man to be called to the bar, a young native would have to come to this country, and remain here for five years, which of course is a very objectionable proceeding, and must be felt as a great grievance by native gentlemen who desire to send their sons into a liberal profession. Such an institution is a matter of very easy establishment, because a desire exists on the part of the native community to have it; their funds would be forthcoming, and a little assistance from the Government is all that is required to organise such an institution.

2526. By what degrees would you introduce the extensive changes which you have recommended to the zillah courts?—I think the English language might be introduced to-morrow; the first thing you require is an English bar; that is to say, a bar of vakeels speaking English; directly you offer any situation of good remuneration and respectability to young men of education at Bombay, I am satisfied such posts would be filled up; the present judges who are administering the law might use the English language at once by having interpreters attached to the court on small salaries, for it is astonishing at what small salaries you can get educated men; they would at once record their proceedings in English, and conduct the inquiry in English. As to whether an English bar could be introduced to-morrow, I should not like to speak so confidently; three years is the time I should allow; in three years you would get a bar speaking English at the eight zillah courts in the Bombay Presidency.

2527. Under the present judicial system, is there ample means by which the natives can guard themselves against any abuses of official power?—I gather principally from a despatch of the Court of Directors that they have some ground of complaint as to the arbitrary mode in which sometimes native employees are treated; in a despatch from the Court of Directors about two years ago there is some complaint of the mode in which native servants of rank and consideration have been turned out of office without sufficient inquiry; I have seen instances in which I think a much more summary mode of dealing with native employees has been adopted than would be permitted with respect to Englishmen in office; I think it deserves great consideration on the part of the Government whether they should not adopt some other method of dealing with alleged delinquencies on the part of officials, some inquiry which should ensure that no corrupt practice should go on, and at the same time secure to the individual a fair and impartial trial, such as he ought to have, before so severe a penalty is inflicted.

2528. With respect to what class of officials did this take place?—I hardly like alluding much to particulars, but I have in my mind the case of a native judge accused of corruption and misconduct; he was tried and turned out of his office.

2529. He was tried and convicted?—Yes.

2530. By whom was he tried?—He was tried by a zillah judge; the case was got up by the assistant-judge; I would not wish to be understood as at all impugning the propriety of the sentence. Like every man who has not had to deal with a case judicially, I am not in a position to form a conclusion either way; I read the evidence in the case, and whether the man was guilty or not, I am satisfied that before an English jury he would not have been convicted; though a proper conclusion may have been come to, still the result would have been different.

2531. Had he the power of appealing?—He would have the power of appealing to the Sudder Adawlut.

2532. Are you aware whether the individual to whom you refer did appeal? —I am not aware.

2533. Had

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2533. Had he as a native judge the same means of appeal open to him which any other native would have had?—I have no doubt he would have; I aim in these observations at two classes of cases, one where a man is turned out after a commission of inquiry: for example, there is a case which is now on the Blue Books before Parliament, the case of Nursoopunt, a very distinguished native servant, who received testimonials from all his various employers during a great many years, and who had received Enaum villages, and so on. He was tried under a commission of inquiry on several charges, acquitted of the two most prominent ones, but found guilty of that which, to a class of readers like myself appears a very small one, and I see the result was, that he was turned out of his office with ignominy. I confess I do not think any English gentleman of consideration and station would be so treated, or would submit to such conduct. The other class of cases to which I refer are cases where a native officer is tried by a criminal court in the interior on a charge such as I have referred to in a former answer. When you look at the mode in which a case of this sort is got up, for that is the correct word to express the operation which takes place; you will see that the preparation for the trial has to be made by a European official; very often by the assistant judge. The duties which in this country are performed by the attorney for the prosecution. of seeking out witnesses and inquiring into the circumstances which may take, perhaps, six weeks or two months to go through, are performed by a European gentleman of high station in the judicial office. This gentleman is inflamed in the pursuit of justice; he is desirous to unmask corruption and villany, but necessarily and naturally his mind is very apt to become a little tinged with over-zeal, and to acquire, as is often the case with prosecutors, a great bias towards conviction, a great desire to convict if he thinks the crime has taken place; he is in daily contact with the judge, living at the same station with him, and though I do not know the fact, I do not see how it is possible to be avoided that those matters which for two or three months before the trial to be investigated form a matter of conversation at the zillah town, should give rise to decided opinions as to the guilt or innocence of the individual. When you see of how much importance the conduct of your native employees is, who are men whom you must employ, and whom you should seek to invest with all the dignity you can, I think a different mode of trial should be adopted; you should resort to the most eminent court you have, a court wholly unimbued with local prejudices, and the inquiry should take place with all the solemnity that a similar trial would receive in England if a high functionary were accused of crimes and misdemeanors. Therefore, for the sake of the native employees, all such inquiries which tend to conviction, I think should take place before one of the chief Supreme Courts of the country; whether it is the Company's court or the Supreme Court is, in my view, immaterial.

2534. Sir *C. Wood.*] Do you remember what situation Nursoopunt held?—I know one of his situations was that of native assistant to the Resident at Baroda.

2535. Was it a judicial situation?—It was not.

2536. Do you recollect whether the charges which were brought against him were in any way in reference to any judicial proceedings on his part?—I have not read the proceedings since I left India.

2537. Are you not aware that the charges against him were charges of corruption and misleading his superior, by withholding evidence in the case of the trials of two natives, leading, consequently, to the grossest injustice, which injustice was afterwards repaired by reversing the decisions?—I think the principal charge against him was the charge of having received a large sum of money to influence the mind of his principal, but I think on that charge he was acquitted.

2538. Are you not aware that the Resident was compelled by the Government to bring the charges against him, to be tried before an independent judge sent down for the purpose of conducting the trial?—Yes, Mr. Frere. The conclusion to which I thought Mr. Frere arrived was, that he had used the name of a Bombay civilian, and had boasted of his influence with him in an improper manner, and of that charge he was found guilty.

2539. Were not there charges of long continued corruption on the part of Nursoopunt, with reference to a long series of transactions in which Colonel Outram was concerned?—Yes, but he was acquitted on that inquiry. If he had

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had been found guilty of that main charge, my opinion would have been different.

2540. Was not he found guilty of withholding from his chief most important evidence, the withholding of which evidence led to two decisions which were subsequently reversed?—I am not aware of that; I thought the main point on which he was found guilty, was boasting of his influence with Mr. Reid.

2541. *Chairman.*] The Committee understand you, that your impression is that the zillah courts ought not to inquire into charges against native officials, but that those charges ought to be carried before the Supreme Court?—Yes, away from the local scene of the alleged offence.

2542. Mr. *Macaulay.*] Is that answer to be understood to apply to judicial functionaries only, or do you mean that the whole body of native functionaries, in all departments, should have the privilege?—I am desirous to carry out the despatch of the Court of Directors, in which they reprehend their servants for the mode in which the employees are often treated. They lay down some very wise rules upon the subject. With the large corps of officials which you have in India, with whom it is very desirable to secure purity, and to avoid arbitrary conduct, some mode should be devised of bringing the official to trial before a tribunal of an impartial kind, upon which all the light of publicity can be shed.

2543. *Chairman.*] You do not mean to say that there is any different law administered in the case of European and native officials, but that in cases where charges are brought against native judicial officials those charges ought to be carried before a court which is not likely to be influenced by local or individual prejudices?—Yes; there is another class of cases that the laws of the country do not sufficiently provide for. Official misconduct, for instance, is not a matter which forms a subject for the Legislature generally to frame statutes upon; there are a great many matters which may occur which would disentitle a man to continue in the service of the Government, but which matters would not form the subject-matter for a statute; still if one official servant is acting in a way which the Government disapprove of, of course they ought to have the power of turning him out immediately; but before they do so, it is desirable, for the sake of justice, that some mode should be devised of investigating those cases carefully in order to avoid wrong decisions.

2544. Mr. *Hume.*] Are the Committee to understand that you approve of the principles laid down in that despatch of the Court of Directors to which you have alluded, for the purpose of the protection of those who have been accused of misconduct?—I approve most warmly of the despatch.

2545. Mr *Elliot.*] Is it not the case that, in the event of any serious charge being preferred against a civil servant of the Company, a commission is appointed to inquire into that charge, and in the event of the Government being satisfied by the report of the commission that he has been guilty of the charge, he is dismissed from his employment without any trial at all?—Very likely.

2546. Then a native is in a better position than a civil servant in that respect, the one undergoing a trial, while with respect to the other there is merely an inquiry?—I am not aware that a commission is limited to a European official; I suppose it is competent to the Government to issue a commission as to the conduct of any servant of theirs.

2547. The complaint which you now make is on the part of a man who is tried by a judge, and who has also the power of appealing to a superior authority, and from that again to the Government; and his case is supposed to be harder than that of a European who has no trial at all, except an inquiry by a commission?—I allude to a class of cases which may not form part of the subject-matter of the criminal code, on which therefore you could not bring a native to trial.

2548. Sir *R. H. Inglis.*] Will you explain to the Committee the phrase which you used with reference to a trial which took place in India, in which a native was convicted, that an Englishman would not submit to it?—As I said before, I find the Government of India complaining of the mode in which native employees of character and experience are turned out of their situations, and reprimanding their servants in India for such proceedings. I take up that text and I say, that I think some mode should be devised of giving native officials a fair trial in every case of objection to them; I think it follows from the language of the Court of Directors, that the instances they have observed which

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which called for such a despatch, have produced a degree of injustice which would not have been submitted to in the case of English gentlemen of authority and position.

2549. Do you mean to illustrate that by the case to which you called the attention of the Committee?—Yes, if that had been the case of an English judge; I think no English judge would have been found guilty by a jury in this country of the particular instance of corruption.

2550. Sir *T. H. Maddock.*] What would you suggest as the proper mode of correcting this evil?—In all cases of offences against the law of the country, such as corruption, or official misconduct, which the law touches, I have already suggested that the trial should take place in the chief court of the presidency, in the court presided over by the most able man with the most able bar, publicity attending the proceedings on all sides. With respect to proceedings not provided for by the criminal code of the country, I cannot improvise a scheme, not having particularly attended to the subject; but it is for the Legislature to do as the governments of some countries, such as Prussia, have done with a large official class, namely, provide some effectual mode of having a good tribunal to investigate those cases. A commission of inquiry is resorted to in the case of Europeans; I have not seen a sufficient number of instances of them to form an opinion of their efficacy, but some such scheme, I think, should be adopted; as to criminal trials, I am clearly of opinion, that in the case of men of rank and station, such as the judges in India, the trial ought to be at the presidency town.

2551. Mr. *Macaulay.*] Are the Committee to understand it to be your opinion that no revenue peon ought to be dismissed for extortion without an investigation by the supreme authority?—I was alluding to the higher class of functionaries.

2552. Mr. *Mangles.*] Do you think the Government should not have the power of dismissing any servant whom it cannot convict of a criminal offence?—No; I think the Government should have the power which all masters have of dismissing incompetent servants, or servants who have offended them by their conduct of any kind.

2553. Mr. *Elliot.*] In the event of corruption on the part of any officer of the Supreme Court, what would be the course that would be pursued?—Whatever course would be pursued in regard to officials in this country; the English law would operate.

2554. Will you have the goodness to state what that course would be. Supposing an interpreter or any other officer of the Supreme Court were accused of gross corruption, what course would be pursued for the purpose of punishing him?—I must do as all lawyers do when a legal point is put before them, try and recollect if any case of the kind has occurred within my judicial experience. If one of our interpreters had committed any act of corruption, the judge would have the power of dismissing him at once.

2555. Without a trial?—I suppose so.

2556. Supposing he were guilty of such a crime as you refer to as having occurred in a zillah court, mere dismissal would not be sufficient, but you would require to punish him further?—There is this broad distinction between the Queen's courts and the Company's courts; the Queen's courts never take the initiative in prosecution, that is done by the grand juries and by the magistrates; but in the interior, a judge has so very little assistance from the public, that he is compelled by the force of circumstances to take those cases into his own hands, and when I spoke just now of the assistant judge getting up a case, an expression which seemed to have been thought objectionable on my part, it describes, in point of fact, what does occur, and necessarily must occur. The assistant judge, the magistrate, whoever it may be, is obliged to look right and left for evidence, to collect it from all parts, and he performs all those functions that the attorney for the prosecution performs in this country. The case comes on for trial before the judge; the judge does not proceed with the case at once as we do in the English system, where we have the jury in the box waiting; but he is compelled by the force of circumstances, if the evidence is not sufficient, to postpone the case, and to put his finger upon every point which he thinks will elucidate the matter under inquiry. In that manner the functions of prosecutor and judge are very much blended, and I think objectionably so. You cannot help it in ordinary trials, where people suffering

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under a sense of injustice are induced to come forward and give evidence. It does not operate so injuriously there, but where the government as representing the state are the only parties injured, you have a class of cases in which the characters of prosecutor and judge are combined in a prejudicial manner in my opinion.

2557. Supposing yourself to be placed in that situation, feeling the position in which you were placed, and knowing what your own feelings are in giving judgment in other cases, would not you be particularly careful in a case of that sort?—The course I should adopt would be this: the Honourable Member supposes a flagrant case of corruption occurring in the court over which I presided; I should at once direct the officer of the court to address a letter to the Government, stating the facts, and recommending them to take up this case as representing the Crown, and to bring the inquiry fully before the court. I should then have nothing more to do with the case, nor would I listen to any information on the subject till the case was brought before me in the court, when I should hear the case at the bar. If I were in the Mofussil, and such a case occurred, I should have to combine the two offices of prosecutor and judge; I must collect the evidence in the first instance and try it afterwards.

2558. Mr. *Lowe.*] Will you refer to page 1011 of the Blue Book containing the papers as to Colonel Outram; will you read the letter from Mr. Frere which you will there find?—"In the first charge, Nursoopunt was accused of false and unfaithful behaviour, in having conveyed erroneous information, and also in having withheld information from his official superior. This charge was subdivided into four instances, and in all of them except in the second instance, Captain French, who was the official superior specified, has exonerated Nursoopunt from blame. In the second instance, Nursoopunt appears to have attempted to mislead Colonel Outram. The second charge is betraying his trust, by allowing a false claim against Govind Row Guicower to be prosecuted before the Resident, knowing it to be so, and withholding from the Resident documents which would have proved a part of the claim to be unjust. This charge has been proved against Nursoopunt. The third charge is a similar betrayal of trust, in not bringing to notice the diminution in the revenues of Gorajee Pole's estate, and allowing a lease to be cancelled without bringing it to the Resident's notice. Nursoopunt has been acquitted on this charge. The fourth charge is having received a bribe of 20,000 rupees. This charge is not established, but much suspicion attaches itself to Nursoopunt. The fifth charge is having received a bribe of 28,070 rupees. This charge is also not proved, but great suspicion attaches itself to Nursoopunt. The sixth charge is having instigated Baba Nafra to depute an agent to Bombay to bribe the Honourable Mr. Reid. In this case it is proved that Baba Nafra deputed a person to Bombay, who spent large sums of money ostensibly for purposes of corruption, and that Nursoopunt was aware of the person being so deputed, and connived at it; but it is not proved that he instigated Baba Nafra to depute the man, or that he was deputed with the specific object of bribing Mr. Reid. The seventh charge is having made improper and unauthorised use of Mr. Reid's name; and that charge has been established."

2559. Do you still adhere to the opinion that those charges were such as that no English gentleman would have been dismissed upon them?—I still think that the main charge in this inquiry was the charge of Nursoopunt having received bribes. Upon that he was acquitted by the judge, but the judge at the same time gives an addition to the verdict, which I as a lawyer do not much approve of.

2560. Mr. *Cobden.*] You do not think an English judge in recording an acquittal would add that there were suspicious circumstances?—No.

2561. You do not think that any English functionary would submit to such an addition on the part of an English judge?—I think he ought either to have acquitted him or condemned him.

2562. Mr. *Macaulay.*] Was not the inquiry in the nature of an inquiry by a public officer reporting to his superior as to the conduct of another functionary; would not a public officer employed to report to the Board of Treasury or the Board of Admiralty say that though the charges were not quite proved, there were suspicious circumstances?—Yes, but I gather from the commencement of the letter that this proceeding was in fact a special trial under the Act 37 of 1850. Mr. Frere is a judge by profession; he was deputed as a special commissioner

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missioner to inquire into this case. Under that commission I apprehend he tried Nursoopunt upon those different charges.

2563. Are you aware whether any punishment other than dismissal was inflicted upon this native in consequence of this report?—I think it was discussed by the Government, but whether a penalty was inflicted or not I do not know; but the proposal was to take away from him the Enaum villages which he had received in consequence of his long distinguished services to the Government.

2564. Did the commissioner pronounce any sentence, or merely report to the Government?—This is a report to the Government.

2565. Is a report to the Government by a commissioner employed by the Government to inquire, subject to the same rules to which the decision of a court is subject?—I suppose a commissioner conducting such an inquiry as that is obliged to apply exactly the same judicial gravity to the inquiry, and to form an opinion in his own mind whether the man were guilty or not. If the suspicious circumstances were such as to cause the conviction in Mr. Frere's mind that the man was guilty, it was his duty to give utterance to that conclusion in terms; but if they were not sufficient to lead to the conviction in his mind that he was guilty, I think it was extremely injurious to the individual, and very objectionable as a judicial proceeding, to give utterance to them.

2566. Do you think that any Government could be carried on if it could not obtain information, by means of such an inquiry as that which was instituted by Mr. Frere, that there was great reason to suspect that a person had been guilty of misconduct like that imputed to Nursoopunt, although the evidence might not amount to absolutely legal proof?—The question of legal proof was not before the Commissioner; an inquiry is made by one of the ablest servants into the conduct of such and such an individual; you want to gather from the officer you employ what the conclusion in his mind is, whether the individual was guilty or not; to such extent it may be called a confidential inquiry; if Mr. Frere, on going into those serious charges, was of opinion that the man was guilty, then of course it was his duty to give utterance to that opinion; but if there were mere circumstances of suspicion which led to no conclusion of that kind, it was most injurious to the individual to have a High Commissioner of the Government reporting such matters without sufficient ground.

2567. Sir *R. H. Inglis.*] You have stated that an English judge would say guilty or not guilty, and would not add "there are circumstances of suspicion." Is not it a matter of daily occurrence in the criminal proceedings of England, in the assize courts in every county, that the judge tells the prisoner, "You have had a very merciful jury, and you are acquitted, but there are very strong suspicions in your case, and I advise you, when you leave this court, to adopt a better course for the future"?—I am not sure that that proceeding is approved of.

2568. Is not it the fact that in the administration of the English law the judge is not always content to receive the verdict of guilty or not guilty, but frequently adds an expression of his own opinion as to the circumstances of the case?—It does not accord with my experience of the ablest judges before whom I have practised.

2569. In the present instance, though you stated in the first part of your evidence that the case was the trial of a native judge, and though you are now probably as convinced as any Member of the Committee that the party was not tried or his conduct examined into as the conduct of a native judge, do you mean the Committee to understand that you retain the opinion that it was the duty of the Commissioner to abstain from any opinion of his own with respect to a charge that was not legally proved?—I retain all the opinions which I brought into this room; I have not changed them; I still think that if Mr. Frere thought this man was guilty of taking this bribe, he ought to have expressed it, and if the language at the end of the clause in which he acquits him means that, it ought to have been expressed more clearly; if Mr. Frere, on the contrary, had not made up his mind that he had been guilty of corruption, it is a great injustice to the individual that he should labour under such a stigma.

2570. Do you suppose that Mr. Frere's was a confidential communication from an agent to a principal, or the decision of a judge in a public court?—I think it was a trial of one of our ablest servants in the Bombay Presidency.

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You will see by the proceedings that this man had earned the encomiums of all the employers under whom he had been employed; he had received Enaum villages; he was an elderly man of great distinction in the native service. The effect of the proceedings, I think, in substance, to be a trial and conviction, and, therefore not, as the question suggests, a confidential proceeding taking place between the Government and one of its agents.

2571. Sir *G. Grey.*] Do not you draw a distinction between the trial of a person on a criminal charge, subjecting him to a certain specific penalty, and an inquiry which the Government finds it its duty to institute into the conduct of some official person, in order to ascertain whether it is justified in continuing such a person in its employ after certain charges of corruption have been made against him?—Certainly; but I think those proceedings, in effect and substance, partook of the character of a trial for specific charges.

2572. Was not it the fact, in this instance, that an inquiry was directed by the Government in consequence of certain charges being made, and that the inquiry was conducted by a person specially appointed to conduct it, who reported the result of that inquiry to the Government, the Government afterwards taking measures founded upon that report?—Yes. The substance of my observation was, that the main question respecting Nursoopunt was, whether he had been guilty of corruption or not, and the impression on my mind, from what I had read in India, and had heard from my connexion with the Government was, that upon that main inquiry he had been acquitted.

2573. If a charge of corruption were brought under the notice of the Government against a person holding an office during pleasure under that Government, and an inquiry were directed into that charge, the result being, that although there were no legal proof to bring the offence home to the individual, yet that there were very strong circumstances of suspicion, might not the Government be bound to dismiss him from his office, rather than continue him in its employ with those circumstances of suspicion attaching to him? —Yes. I do not gather from that report that Mr. Frere had made up his mind to such an extent. I know the opinion of members of the Government in Bombay was, that he was acquitted on the main charge, though Mr. Frere had added a rider which might mean one of two things.

2574. Sir *C. Wood.*] Are you not aware that Mr. Frere was appointed a Special Commissioner, for the purpose of investigating the conduct of Nursoopunt with respect to certain charges brought against him by Colonel Outram? —I see it was so by a letter from the Secretary of the Government to the collector and magistrate of Ahmedabad: "Sir,—I am directed to inform you that the Right honourable the Governor in Council has, under the provisions of Act XXXVII. of 1850, appointed Mr. W. E. Frere a Commissioner for the purpose of investigating certain charges which have been preferred by Lieutenant-colonel Outram, Resident at Baroda, against your dufterdar, Nursoo Luximon."

2575. Are you aware what the result of the trial was with respect to Nursoopunt?—Lord Falkland, in his last minute, says, "I have come to the conclusion that, while we are fully warranted in dismissing a man in Nursoopunt's position from the public service, it will be unjust to go further, and to deprive him of an Enam village conferred upon him for former distinguished services."

2576. Mr *Macaulay.*] Did his situation, in consequence of this decision of the Commissioner, differ in any respect from that of a Scotch public functionary, who should have been tried at Edinburgh, on a charge of corruption, and as to whom the jury had returned a verdict of not proven?—That is a form of procedure which we have not got in this country.

2577. Mr. *Mangles.*] Would not such a verdict of not proven in Scotland leave the party accused under grave suspicions, as much as if the jury had said there was suspicion?—I dare say it would.

2578. Mr. *Hume.*] You have mentioned that you have had considerable intercourse with the natives; will you state to the Committee what are your opinions as to their capability for office, and their state of morality; how far might they be trusted, if under proper encouragement, to perform duties which might be entrusted to them in various situations in the country?—I have a very high opinion of the capacity of the natives for offices of trust; wherever they have been trusted, I believe they have given universal satisfaction. It is a piece of experience

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perience everybody in India can put his finger on, that in our domestic service nothing can be more trustworthy than the domestics whom we employ. During the 11 years I was in India, my keys were at the disposal of my servants; they were never in my own possession, and I do not believe I ever lost an article of any amount in an establishment of 40 servants. That character begins from the very lowest step in the scale. Pursuing your inquiry, you will find that wherever you trust the natives, you will get honest servants.

2579. Is it your opinion that they may be raised to the higher ranks of judges and to many other situations now filled by Europeans in India?—I think as connected with the judicial service, in point of both intellectual and moral capacity there is no judicial employment to which they might not attain. In the case of zillah judges, where I was suggesting the employment of English barristers, I think it would be very advisable for the native interests, and for the good government of India, that natives should be associated with English judges in those posts.

2580. Have you considered what proportion of remuneration might be requisite to enable them to support their relative position there, and secure their fidelity and attention to their duties?—I think the great instrument you have in your hands for securing good conduct in your native officials, is the same which you have applied to the English officials in India; by all accounts you have a very trustworthy English service throughout the country; you have obtained it by giving them very large remuneration; by applying the same principle to the native employés you would secure exactly the same kind of service, in my opinion.

2581. You do not entertain the opinion which has been expressed by some of the witnesses before the Committee, that the natives cannot, under any circumstances, be trusted to fill high and responsible situations?—As I said before, I think there are no situations to which you could not admit the natives, except such as are connected with our political supremacy.

2582. In your intercourse with the natives at Bombay, have you found them trustworthy and honourable in their commercial transactions, and in other public situations where you have met with them?—Their commercial integrity has always been very famous; it is quite remarkable what a principle of mercantile honour has prevailed among them, such as to give security to their paper from one end of India to the other; the sanctity of mercantile books was such that in the native courts of justice, the production of the books was quite conclusive as to the veracity of any transaction in dispute.

2583. Do you include all classes of natives in that opinion?—When we speak of natives, the Hindoos are always the main persons referred to; the Parsees, who are engaged in commerce, come quite within the same category; I have no doubt the Borahs, a small class, are equally trustworthy in their commercial affairs.

2584. Are the Committee to understand that in your opinion much assistance may be obtained from the natives in every part of India, under a proper system of encouragement and of education, and that the administration of justice may be thereby economized and facilitated?—The main part of the administration in India is now under the natives. It has been the boast of the Brahmins that whatever set of conquerors come, they pull the strings of government in point of fact; that is now going on, and it must be so, and it ought to be so. In the judicial system, 98 per cent. of the causes for trial are tried before native judges; and the evidence is unanimous, I believe, that their decisions are logical, well composed, and in every way extremely good, though they have not had the advantages which might be supplied of a good early legal education.

2585. What view do you take of the general practice of punchayets; had you any opportunity of judging how far their decisions have been in accordance with the evidence, and just?—I believe where the punchayets have been in use they have given great satisfaction to the native community. They sprang up under the native governments, under which good judicial establishments were not provided. Punchayets were the expedients adopted by the natives themselves, for rendering justice to one another. The members of the punchayet were not remunerated; they were chosen from the elders of the community, and I believe, from all the evidence I have heard on the subject, their decisions have been generally found conformable to the merits of the case.

2586. Could you institute a comparison between the trustworthiness and morality

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morality of our own countrymen and the natives of India, in civil situations, where you have seen them together?—The English have a great advantage over the natives in one main branch of morals, namely, in their adherence to veracity; the truthfulness of the English, I believe, is exhibited by them to a greater extent than by any nation in the world; but I also believe it is very much due to two considerations, first, the free government under which we all live, which has enabled every man to speak his opinions without fear; and, secondly, to something in organization. The Anglo-Saxon race are not quite so imaginative as some other races of mankind.

2587. Is not the want of trustworthiness and veracity, one of the great grounds of complaint, as the reason why the natives are not trusted?—Yes.

2588. Does not that operate against the opinion which you have now given?—The natives have not had the advantages which I have alluded to; they have not had a free government; their contact with the Government has been under circumstances unfavourable for leading to a habit of truth. The government of the Hindoo has been a government through the tax collector; it has been the object of the Hindoo to disguise as much as possible the true facts of the case. He was dealing with one whom he considered to be an opponent, and dealing as the weaker party, and therefore thought himself justified in using something like fraud and deceit, as the weaker party will generally do.

2589. Either as officials in the courts of law or as collectors, do you think, with proper salaries and encouragement, they may be employed to a greater extent than they now are?—Undoubtedly; you will find that wherever you have had good native governments, you have had admirable employés; you have had as good judges as we can refer to; you have had financiers and administrators esteemed as men of honour and integrity by their contemporaries.

2590. You were asked a question respecting the use of the English language; is it your opinion that the English language should be introduced into the administration of the courts in every part of India?—The opinion I gave was, that, as the language of controversy and business, it should exist in all the superior courts: that is to say, the courts at the Presidencies and the courts at the chief zillah stations; I would also introduce it as the language of record in every court in the empire: that is to say, I would make it a *sine quâ non* for a native judge appointed to the office to be conversant with the English language, and I would impose upon him the duty of recording with his own hand the evidence taken at the trial, as the judges in this country do; that should be done in the English language, as is done by the Supreme Court judges now; the record would be greatly simplified; the suitor would be saved a great expense, and the Court of Appeal would have a full opportunity of judging of the accuracy of the judgment.

2591. Do you think there would be the means in a few years of providing proper persons to fill many of those important situations?—The means are at hand now in the Bombay Presidency for adopting the latter suggestion, that of making the admission to the native judgeships depend upon a knowledge of the English language.

2592. You consider that the facilities which would be given by the institution of colleges to legal education are most important to the success of any such measure?—I think it is extremely desirable to assist by such means the talents of the natives.

2593. Mr. *Macaulay.*] Do you believe that any great number of the ablest sudder amins, and other native functionaries who now administer justice through the country, know English?—I dare say not; I think very few of the principal sudder amins do.

2594. You would not propose to discard them?—No; the change is entirely prospective.

2595. Mr. *Elliot.*] You spoke, in a former answer, of "boy judges:" it appears also that you gave this answer in another place: "In the Bombay Presidency, after men are allocated to the judicial service from a very early period, they go into office at the age of 23 or 24 as judges, but they sit as judges of appeal only; they sit in judgment over the native judges; you will hear European judges of that age overruling the decisions of those natives, their superiors in age and legal attainments, with great *sang froid* and confidence." Is there not some mistake in that answer?—Not the slightest; I heard, as I supposed, this answer of mine referred to in the examination of a former witness,

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witness, and an impression appeared to prevail that I had made a mistake in the evidence which I have given elsewhere. I made no mistake in the evidence which I then gave, according to my opinion; when I used the expression as to such young men sitting as judges, I referred, no doubt, to the assistant judge; but the assistant judge is as much a judge as an assistant surgeon is a surgeon; it is only to a difference in point of rank and remuneration, but not in function or qualification, that the name applies; the assistant judge in the Presidency of Bombay sits as a judge of appeal; I have sat by his side myself; I should not have used such strong language unless I spoke from personal experience; I have sat by the side of such young men, sitting in appeal from the decisions of moonsiffs and sudder amins, experienced men of, perhaps, double their own age. I think the Committee will find upon the Returns which are already before them, that the principal functions of the assistant judge are those of hearing and deciding in appeal; therefore the case I describe exists in fact, that the assistant judges in Bombay, young men of 23 or 24 are sitting as judges of appeal on the decisions of men more able and experienced than themselves.

2596. Will you refer to the list of the assistant judges, and state if there are more than one or two in the whole list of the age which you have mentioned?—I see two in the list who were appointed to India in 1848, acting as assistant judges; what I desire to say in answer to the question is, that I adhere to every word of the statement which I made before the Committee of the House of Lords. I did not then use the word assistant judge, nor should I do so with an accurate choice of language, because I was referring to the judicial functions which the individual exercised, and not to the station he held in the grade of judicial officers.

2597. Are you aware that in Bengal there are no assistant judges?—Yes, I am well aware of that; they do not attain to the office there till they have served, probably, for 20 years in different departments.

2598. Mr. *Cobden.*] You stated that the Supreme Courts, presided over by legally educated professional men, gave great satisfaction; are they as extensive in their jurisdiction, and as widely useful as they might be, in your opinion?—No; I have already mentioned one branch of usefulness which has been cut off from them of late years, namely, that of exercising summary jurisdiction in small causes, according to the principles coming into vogue day after day; that has been cut off from them within a very few years. I think the same kind of summary jurisdiction which they did exercise beneficially might be carried out to a great extent, and not only in civil causes but in criminal causes. There is a disposition in this country, in minor criminal cases, to dispense with the services of a jury and grand jury, and to allow a power of summary punishment to be placed in the hands of a judge. I think, in the Presidencies, such summary power might be entrusted to elderly men, who fill the office of Queen's judges in India, and, therefore, that other useful functions might be attributed to them.

2599. Are not some questions, such as those affecting the revenue, withdrawn from the jurisdiction of that court?—Yes; there also, no doubt, a tribunal is required such as exists in this country, but does not now exist in the Presidencies, for correcting, I will not say misconduct, but that kind of conduct on the part of officials which is only well punished by a trial of that kind. When the Supreme Courts were established the charter of justice was couched so vaguely that it gave opportunity to the judges, who looked merely to the letter of the law, and did not take statesmanlike views of the state of India, to extend the jurisdiction to a very inconvenient degree. The Committee, of course, are aware of the difficulties which arose in the case of Chief Justice Impey and Mr. Justice Hyde, and so on. The consequence was that Acts of Parliament were introduced, excluding from the Supreme Court the jurisdiction of revenue cases which take place in the interior; the whole of the English officials in India having been subjected to the jurisdiction of the Supreme Court, as a mode of keeping down official misconduct; but if the Supreme Court were to interfere with the collection of the revenue, or any little trespasses which might occur, of course it would make the functions of government in the East wholly impossible, and, therefore, the statute excluded from the jurisdiction of the court all cases of revenue collection in which the letter of the law had been infringed. On applying those statutes, as they have been applied subsequently to the Presidencies

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dencies of Bombay and Calcutta, which are, in point of fact, presidencies equal in wealth and station to the large towns in England, Liverpool, and so on, the same law has been adopted, the consequence of which is, that if any case occurs where an inhabitant has to complain of an unlawful act of a collector in his collection of the revenue, there is no efficient tribunal which I can point out by which redress could be obtained.

2600. You suggest an amalgamation of the Queen's Courts and the Company's Courts; are there any obstacles to such an amalgamation being carried out?—I do not see any obstacle. I think in all those cases of legal, and judicial, and administrative reform, the great thing needed is a vigorous government at the head of affairs. In all legal reforms there are a great many points that suggest themselves for controversy. While discussions go on in writing so many plausible schemes are put forward, that it is difficult for any one to form a conclusion, and therefore it is the business of statesmen to choose between them and decide upon something being done. That is what I think is chiefly wanted in India to urge forward those kind of reforms.

2601. You mean that there is a divided authority in the Government of India?—Yes, there is very little power, which I regret, in the hands of the local Governments; and subjects which they think deserving of legislation have to be referred elsewhere, and get into the hands of persons who do not know nearly so much about the matter as themselves. I have seen that very strongly in operation in Bombay.

2602. No doubt you have frequently made the subject one of consideration and of discussion among your friends; have you any suggestion to make as to what reforms or alterations you would think desirable in the administration of the affairs of India?—As an administrator myself in the two great departments of law reform and education, the conclusion I have drawn as to those two departments I believe would apply to the whole question; that to make India progress in the manner in which we are desirous to see it progressing, the administration of India should be almost entirely vested in the local Governments in the country, Bombay, Calcutta, Madras, and Agra respectively. You should select the best men you can for your governors and councillors, and leave to them the business of local legislation; but the general body who supervise the whole system, and which is as near to all the presidencies almost as one presidency is to another, should be in England, and should be a body composed of the ablest men you can find; a small body of well-selected men from whom, as one of the witnesses in the service of the Company said, you should withdraw every motive whatever that can at all impede good government in India. That is a principle which he lays down as one to be observed in framing the Home Government to which I entirely subscribe. I think that the problem may be solved by having a Minister for India, a Secretary for India, with an able Council, composed of a few men conversant with India, by whom the functions now exercised by the double authority should be performed. By those men the controlling power, which in point of fact is all that can well be exercised in this country, and all, as far as I gather from the witnesses from the India House that is exercised, should be put forth. To such men, if well selected, and few in number, because it is very difficult to find competent men for such a post, all large schemes capable of being applied to India, all codes, and all matters of general policy, might be entrusted. So long as you continue to refer to India those general schemes, you have not the means of collecting together a legislature or a legislative body who can be adequate to such functions. The very same reasons which operate to prevent civil servants from being good judges equally operate to prevent their being good legislators. They are admirable administrators, men capable of action and ready to act upon their own responsibility, but they have not the means of making themselves conversant with that large body of information which is required in a legislator. Moreover, India is not at all fit for any such legislation at their hands. The circumstances of India are so different in one part of the country from what they are in another, that a law which suits one presidency is wholly inapplicable to the others. Therefore any such local legislature as has been suggested would fail from those different causes which I allude to; first of all, the inability to find men with the qualities of legislators, and secondly, from the state of the country being such as not to require any general legislation. On the very

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very few questions upon which general legislation is required, a small body composed of the ablest Indian officials whom you can find, with two or three English statesmen, would be the most competent body which could be formed, and to such a body all general measures of administration and law reform could be referred, and by them decided on, and so an impetus be given to the local governments in different parts of India. But the mainspring upon which you must depend for the improvement of India generally, is to give an independent power, subject, of course, to superior control, to the different local legislatures through the country. The evil which I have found greatly complained of in going about India is, that they are placed under a government which knows nothing about their wants. In the North-Western Provinces the Committee will find, from the witnesses in the service, a general complaint exists as to what emanates from Bengal; in the same manner at Madras and Bombay the complaint is that local subjects go up for consideration before the Supreme Government, as it is called, and are disposed of on very inadequate grounds; and if the Committee look to the mode in which those councils are formed, it must be necessarily so. For though the Council in Bengal is, generally speaking, a more able council than exists in the smaller presidencies, because it is selected from a much larger class, it is not necessarily the case. It often occurs in practice that the minor councils contain more eminent men than the supreme councils, but in all cases this operates, that the Supreme Council is not equal in special and local knowledge to the minor Councils, on whom the business of local legislation ought to depend. For this opinion of mine, which I would not venture to put forward unless there were experience to support it, you have a very large experience to refer to. Previous to the last charter the business of local legislation was very much left to the minor presidencies, but in the last charter a much greater control was given to the Supreme Government, and the local presidencies have been left with very inadequate powers. I am satisfied, that in my own time, if the Local Government of Bombay had had the power of legislation within its own limits, on those two subjects with which I have been much concerned, law reform and education, we should have made much greater progress, from the unanimity of good feeling existing between the courts of justice, the Supreme Court, and the Government, than has been obtained under the present system by which the government is divided, and authorities ignorant of local matters have had to dispose of the case under consideration.

2603. You have spoken very highly of the talents and virtues of the natives for administrative employments, would you consider them eligible in any case as legislators?—I have already said that I do not think that there is much material for legislators anywhere in India. The European official learns his experience in the jungles, and in his intercourse with mankind; he is educated by the circumstances in which he is placed, and he forms very admirable opinions very often, upon nearly every subject of Government, but he is without libraries, he is without the means of reference to books, or any means of contact with superior minds; he does not therefore know what has been previously done upon the subject engaging his attention. Therefore when he sits down to legislate, as he often does, because the system of government requires every official to suggest improvements, and to suggest matters from time to time to his government, he sends up large schemes to the government, which may frequently have been tried and failed elsewhere without his knowledge, in consequence of his not having had the benefit of an acquaintance with the experience of preceding times; therefore he is not fitted by his previous training to undertake the business of legislation; and if he is not so it is natural to suppose that a native of India, who has not taken up the business of government at all, but has been merely looking after his own engagements, must be at least equally unfit, and I think he is a great deal more unfit, for the business of legislation, to which the question refers.

2604. Mr. *Ellice.*] You propose that this legislation should be left in the hands of a council here, composed of eminent persons, who have gone through long periods of service in India. If those are the fit persons to legislate for India, must not they have obtained their knowledge of the world, and the other information necessary to enable them to become legislators, in India? —Yes.

2605. Are not such men as Lord Metcalfe, Sir George Clerk, and many other persons

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persons who have served in India, equally capable of becoming legislators for that country as any men whom you can find in this country?—The observations I have made, without alluding to individuals, I think apply generally. I think functionaries in India are precluded from making good legislators. The object of such a council as I propose would be to instruct the Minister of State, whose mind has been directed to legislation and statesmanship during his whole manhood, to furnish him with the local knowledge and the traditionary information which functionaries of that character would possess.

2606. You would prefer that the Minister of State, appointed here periodically to control the government of India, should legislate for that country, rather than persons who have passed through long periods of service in India, and have acquired great experience there?—I rather limited my opinion by what have said as to the necessity for very little legislation for India; administrative measures are what I think are chiefly wanted in that country, and the occasions on which any considerable legislation should be undertaken, I think, are very rare; the country is not ripe for any general legislation.

2607. Do not you think that the information to be obtained in India by persons actually resident there, and in the service of the government, is more likely to enable them to determine wisely upon the expediency of administrative measures than the experience of any minister appointed by the Crown in this country to control the affairs of India?—I have stated already that local legislation, the Regulations as they used to be called, should be committed chiefly to the local authorities in India; and that the opinions of some persons who are aiming at centralization, and at the appointment of a large legislative council in India, are not warranted by experience. I do not think that the occasions would be very frequent on which such a home council as I have suggested would have to exercise their power of legislation.

2608. Have we had any experience to justify us in supposing that better means of legislating for India can be obtained in this country than in India itself?—I think the experience of the last 20 years does not show us that the means of legislating for India exist there.

2609. May not improvements be made upon those means which were adopted 20 years ago, for the purpose of legislation in India?—I have heard improvements suggested by means of enlarging the Legislative Council in India, by adding to it different functionaries, and so on; but upon a full consideration of those proposals, it does not appear to me probable that any great improvement will be introduced; on the contrary, the evil which I have been describing, for example, the objection to other parts of India being legislated for by Bengalese, would be increased. If the Legislative Council were situated in Bengal, it would become more a Bengal government than it is at present. That is an observation which I hear in the mouths of the ablest men in India.

2610. Mr. *V. Smith.*] Your proposal with respect to the home authorities would involve the combined authority of a Minister of the Crown, assisted by a council, formed of persons experienced in Indian affairs?—Yes.

2611. Mr. *Mangles.*] You have recommended that barristers should be appointed zillah judges; do you mean that they should go out from this country and take their seats upon the Bench in the zillah without any local training of any sort?—Yes.

2612. Are you not aware that Sir Thomas Monro and other authorities of almost equal weight have been of opinion that no man was fit for the Bench in India without previous training in the Revenue Department, and other means of acquiring a knowledge of the people?—I have already given my evidence upon that point, admitting to the fullest extent the great value of the local knowledge to be obtained in the Revenue Department; but I have pointed out that a still more important knowledge is required from the judge, namely a knowledge of mankind, and a knowledge of jurisprudence; you must sacrifice either one or the other. If you appoint a young man of three and four and twenty he possesses neither one kind of knowledge nor the other; but he gets a local knowledge in time by experimenting upon the causes of the poor. The advantages which I anticipate from appointing experienced barristers of character and reputation to the judicial office would be, that you would supply at all events one of those great requisites, and the other would follow in course of time. I would allude to an experiment which is in actual operation.

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tion. Those Queen's judges who go out wholly ignorant of the country, and of the native customs, and even ignorant of the language, yet perform the duties of the judicial office to the satisfaction of the native community, who of course are the best judges whether their functions are performed well or not. I do not say that there are no evils in such a course. The evils of course are great. The judge should be conversant, if possible, with every subject that comes before him.

2613. Mr. *Macaulay.*] Is not the salary of one of the judges of the Queen's courts double the salary of a zillah judge?—The salary of a puisne judge at Bombay is 5,000 *l.* a year: the salary of a zillah judge is about 3,000 *l.* a year.

2614. And the Bombay puisne judge obtains a retiring pension after 10 years' service, does not he?—Yes.

2615. Of what amount?—The puisne judge receives 1,200 *l.* a year after 10 years' service.

2616. Do you think that a salary of 3,000 *l.* a year without the prospect of a retiring pension would enable you to obtain barristers of age and established reputation for those situations?—I have made inquiries on this subject since I have been in England, among my friends at the bar, and I find the general opinion to be, that a salary of 3,000 *l.* a year would tempt most able men to go out.

2617. Without the prospect of a retiring pension?—If they go out to India I apprehend they would be put very much in the same position as the Company's zillah judges. The zillah judge has not only his present position of 3,000 *l.* a year, but the prospect of being raised to the Supreme Court of the Company, the Sudder Adawlut, where he may get 6,000 *l.* a year. That reward would be equally open I apprehend to a barrister who was appointed a judge. He also receives a gratuity from the Company at the end of his service of 500 *l.* a year, and he pays by deductions from his salary for another 500 *l.* a year. I apprehend if an English barrister went out in the way I propose, the same system would be applied to him, and a fund would be provided from his salary by which such a retiring pension might be secured.

2618. Has not a zillah judge now to wait for his pension for 25 years?—Yes; but if you were to send out barristers to those offices in the way I mention, the class of persons to whom you would resort would be those to whom you now give the judgeships of county courts, only you would send out such men at a much earlier period of life.

2619. Do not you think that if you were to send out barristers of 26 or 27, barristers who have scarcely had a brief, you would lose those advantages of age and experience, and established reputation, and general knowledge of the world, which, as you have said, are the advantages which you desire to secure?—In every consideration of this subject you have many difficulties to deal with. It is only a choice of evils which you have before you, when you are attempting to govern a country like India by foreign officials. No doubt it would be far better to send out as zillah judges men of standing and established reputation; but, of course, your finances will not allow of that. The mode now in operation is to train the Company's judges by that gradation of office which has been described. Experience proves that that has failed, and by way of a remedy I would suggest that you should have men of five or six years' professional training in the courts of this country, who, I believe, would make a better set of functionaries than those who are now employed; and I see no difficulty either in the amount of the salary, or the remoteness of the pension, to prevent your employing such men.

2620. Do you believe there is any county court judge in England under 30 years of age?—I have been away from this country for 12 years, and I do not know their ages.

2621. Do not you believe that the bulk of the county court judges are of a much greater age than 30 years?—I believe the county court judges are not quite such good men as they will be hereafter. I believe the fault to be imputed to them is, that they are generally too old.

2622. If you required the Government to take their choice from young barristers of seven or eight and twenty, of whose qualifications it is next to impossible that there can have been much proof, is it not probable the thing would be converted into a mere political job?—I think you might prevent that

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by giving the appointment to the same officers who now appoint the revising barristers, at least they used to appoint them in my time: namely, the judges on circuit; they have ample means of testing, not only the general attainments of the gentlemen who go the circuit with them, but their moral character. It never, I believe, has been imputed as a fault, that giving that portion of patronage to the judges of the country has operated ill in practice. But there is another field from which to obtain candidates for zillah judgeships, namely the local bars at the Presidencies. If barristers were selected from that forum, a good many of the objections which have been started as to the ignorance of the native customs and usages would disappear; because men after so many years residence in the country, and especially with the hope of employment, would make it their business to study the languages of the country, and to make themselves conversant with those native habits and manners which have been so much spoken of.

2623. As it would be impossible that English judges should name the barristers of the Supreme Court of Calcutta or Madras to fill those situations, to whom would you leave those nominations?—To the local governments.

2624. Is it to the Queen's Government here, or to the local government, or to the judges on circuit, that you would give this patronage; or in what proportions would you divide it among the three?—In Bombay there are only eight zillah judges to be appointed: the native judges having given satisfaction, as I have described, in their judicial office, I suppose would come in for a share of those appointments. I suppose, if the native judges perform their duties so well as they are described to do by persons competent to form an opinion, it would be impossible to withhold from them, in the course of time, some of those superior offices. I apprehend, therefore, that the zillah judgeships would be open to them among others: that would diminish the number of appointments to be filled up from this country, say, to five. The whole number of zillah judgeships in the Bombay Presidency is only eight. Whether the five appointments are made by the Crown, or by the Secretary for India, or by the judges on circuit, I think is very immaterial, for on the whole I think you would get an efficient body of men, because you would have the means of calling forth all the best faculties of the individuals for exertion on the bench; they would have a good salary, and also the hope of promotion held out to them if they conducted themselves well; there would be a gradation to the Supreme Court of the Presidency, with a larger pay; and you would obtain the very great advantage of placing all those men under the most efficient check you can apply to such a body, namely, the opinions of the profession in Westminster Hall, which I believe to be the most efficient security you have for good conduct on the bench. All the judgments and proceedings would be in English; all appeals would be to the Supreme Court at the Presidency; they would come home to this country; and every man of education in the realm would be able to test whether the judicial conduct of those individuals was good or not.

2625. Sir *G. Grey.*] You have stated that there are eight zillah judges in Bombay; do you know what the number is throughout India?—In Bengal, I see by the Blue Book, there are 32; in the North Western Provinces, 21; in Madras, 20; and in Bombay, eight; that makes 81.

2626. Your recommendation does not apply simply to the Presidency of Bombay, but to the whole of India?—Yes. I have not included in this view the new countries like Scinde, the Punjaub, and others. For a long time, I suppose, they must be conducted on a different system more in accordance with the native system.

2627. As they come within the same system the number of zillah judges to be appointed would of course be increased?—Of course.

2628. Mr. *Macaulay.*] Do you conceive, from your knowledge of the profession, that any person who would accept a county court judgeship would be willing to go out to India?—I think I should myself, at 25 or 26 years of age.

2629. Mr. *V. Smith.*] Do you happen to know the amount of salary which is given to the judges sent to the West India colonies?—I know, taking the salaries paid in Ceylon, they are very inferior to 3,000 *l.* a year.

2630. Mr. *Mangles.*] You spoke of a knowledge of mankind as being still more essential than a knowledge of the law to the formation of an efficient judge. Was it quite fair then to compare our mature barristers, as you did, with an assistant judge,

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judge, of whom you said before there were only about six or eight in the whole Bombay Presidency, and none at Bengal; would not the comparison have been fairer between a mature barrister and a mature judge?—Yes, I had that in my mind when I gave that answer. I had in my mind the judges of Bengal, who are experienced men, with a knowledge of the native habits and customs and languages. I compared those in my mind with an English judge who had been trained in the English courts, and had obtained a knowledge of the principles of jurisprudence, and an experience of mankind at the same time.

2631. Would not a full judge be likely to have a better knowledge of mankind, and especially of that particular race of mankind with whom he had to deal, than a barrister of six or seven and twenty?—Yes, a knowledge of mankind, but not a knowledge of jurisprudence, which is also important.

2632. You spoke of a knowledge of mankind as being still more essential than a knowledge of jurisprudence?—I said it was more essential than a knowledge of the native habits and manners; I said there was a still more essential knowledge than a knowledge of the native habits and manners, namely, a knowledge of mankind, and a knowledge of jurisprudence.

2633. Do you think you were quite correct in stating that the judges throughout the Bombay Presidency are not acquainted with the vernacular language of the people, and cannot read papers in that language?—I am satisfied that it is the case to the extent to which I have stated it.

2634. Have you any knowledge which would enable you to speak of the judges of the North-western Provinces?—The North-western Provinces have one great advantage over Bombay, namely, they have only one language which is vernacular, Hindi or Hindostanee as spoken by the Musselmans; that language prevails over a country comprising very many millions of mankind. Then in Bengal, you have a language also which is vernacular, the Bengalee, which prevails among 36,000,000 people; but in Southern India and in Bombay, you have three or four languages vernacular, with none of which, as a general rule, are the judicial functionaries conversant. I dare say the almanack would enable me to point out that in the Sudder Adawlut the judges are not acquainted with Guzerattee or Mahratta in such a manner as to be able to sum up to a jury in it.

2635. Are you sufficiently acquainted with Bengal and the North-western Provinces, to say whether the judges can speak with sufficient fluency to be able to conduct examinations, and sum up evidence, or read papers, in the native languages?—I dare say in the north-west they are sufficiently acquainted with Hindostanee to be able to conduct inquiries extremely well; as to writings, I do not know. The native writing, as the Honourable Member is well aware, is very defective; their system of leaving out the vowels is so perplexing that I have even seen able Brahmins puzzled with documents; but in the Bombay Presidency, where Mahratta and Guzerattee are used, there are very few European officers who can read documents.

2636. Are you aware that young men in Bengal, before they can succeed to very inferior posts, are tried in reading those very documents of which you speak as being read with so much difficulty?—Yes, that is the case.

2637. And they cannot pass the examination unless they are capable of reading a paper which they have never seen before, written in this difficult running hand of which you speak?—Yes; but I have seen in the courts of justice written documents come daily before the court which have puzzled even the interpreters of the court to read, the language is so defective, with regard particularly to the Marwaddys; their documents are not legible by any one member of the service; I found that opinion upon the fact, that I see natives themselves puzzled to read them. Even in the north-west, where only one language prevails, those gentlemen are not able to read such documents coming before them.

2638. Those documents are not written in the vernacular language of the country, are they?—They are written in the vernacular language of the Marwaddys.

2639. That is a commercial style of writing, is not it?—No; I speak of documents written in the language of those people.

2640. You think many of our judges could not read that language?—I think very few could.

2641. You spoke of there being no efficient tribunal to which natives could appeal

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appeal against revenue officers; is not it the case that the laws of every Presidency of India put the Government upon a perfect footing of equality in regard to its subjects in all cases between it and them?—There is an ample mode of appealing against any decision of a revenue officer in case of his making too large an assessment, but I do not see any mode of getting redress, as redress is obtained in this country, against any act of misconduct in the exaction of revenue by a revenue officer.

2642. Is not the Government liable to be prosecuted through its officers in every imaginable case?—In my evidence on this point I was describing what takes place in the Presidency of Bombay, not in the Mofussil. In the Presidency of Bombay, I see no mode of getting redress against any misconduct in the exaction of the revenue by a revenue officer.

2643. Cannot the officer be prosecuted for damages?—I do not know before what court. They attempted to bring such a case before the Supreme Court. I thought the jurisdiction existed in the Supreme Court, and I pointed out the reasons why; but an appeal was made to this country, and the Privy Council decided that the Supreme Court had no jurisdiction; but they added that they hoped there was some other tribunal in which redress could be obtained: but I do not myself know of any other.

2644. You drew an unfavourable comparison between the Company's jurisdiction and the state of things in this country; are you not aware that there are very large classes of revenue cases in this country in which the subject can obtain no redress; for example, take the case of a seizure of goods alleged by the Customs to be smuggled, which turn out to be goods upon which the party has actually paid the duty, he can get back the goods, but he can get neither costs nor damages from the Crown?—That is because the law of this country is so.

2645. Is not the law of the Company's territory just the reverse?—What appears to me to be required is, that the law should give the Company whatever power they require to collect the revenue, but that if that law is transgressed there should be some means of getting redress; that is the case in this country, and I think it should be the case in India also.

2646. Is not it the fact that in England a subject can get no redress against the Crown in a vast variety of revenue cases in which by the law of India a man can get redress?—I do not think a person can be said to get no redress if the law does not give it to him; the law says the revenue officer in England shall be entitled to seize; that man is not without redress, because he cannot get damages from the officer, for the law permitted the officer to seize the goods.

2647. A case occurred at Liverpool the other day in which a large cargo of rice was seized, because it was alleged that there were smuggled goods under it. The cargo of rice was damaged, but the smuggled goods were not found. By the law of England the owner of that rice could get no redress as against the Crown, but if such a case had occurred in India would not the subject have obtained redress against the Company?—I do not know how he would get redress in Bombay.

2648. Are not you aware that by the law of India universally, the subject is put upon the footing of perfect equality with the Government, and that he can prosecute for damages in the Company's courts?—I am not speaking of the regulation law; I am speaking of the law in Bombay, where a large native population is congregated together. There a merchant who has his house broken open upon a charge affecting the revenue cannot obtain any redress against the collector who makes the seizure.

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MEMBERS PRESENT.

Mr. Baring.	Mr. Hardinge.
Sir R. H. Inglis.	Mr. Mangles.
Mr. Macaulay.	Mr. Spooner.
Mr. J. FitzGerald.	Mr. Cobden.
Sir J. W. Hogg.	Mr. R. H. Clive.
Mr. Elliot.	Sir Charles Wood.
Mr. Edward Ellice.	Mr. Lowe.
Mr. Hume.	Mr. Vernon Smith.
Sir T. H. Maddock.	Mr. Labouchere.

THOMAS BARING, Esq. in the Chair.

The Right Honourable Sir *Edward Ryan*, called in; and further Examined.

Right Hon. Sir *Edward Ryan*.

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2649. *Chairman*.] HOW long have you sat upon the Privy Council as a Court of Appeal from judgments in India?—I have been present since 1843, part of the time being summoned to attend as assessor in Indian cases till 1850, when I became a member of the Judicial Committee. For 10 years, therefore, I have attended the Judicial Committee upon the hearing of Indian Appeals.

2650. Have you been pretty constant in your attendance?—I believe I have been present at this hearing of every appeal from India during this time.

2651. What has been your experience as to the relative number of appeals from the Supreme Courts of India and the Company's Courts?—I have had an account made out at the Privy Council, which I believe is accurate. This is a memorandum of judgments affirmed, reversed, and varied from the Sudder Dewanny Adawlut and the Supreme Courts of Bengal, Bombay, and Madras respectively, from 1834, which was the period of the establishment of the Judicial Committee, to the present time. From Bengal, from the Supreme Court, there have been 6 decrees affirmed and 12 reversed; from the Sudder Dewanny Adawlut there have been 38 decrees affirmed, 11 reversed, and 7 varied; from the Supreme Court at Bombay there have been 7 affirmed, 8 reversed and 1 varied; from the Sudder Dewanny Adawlut there have been 18 affirmed and 7 reversed. From the Supreme Court at Madras there have been 2 affirmed, and 6 reversed; from the Sudder Dewanny Adawlut at Madras there have been 9 affirmed and 7 reversed. Therefore, the total number from the Supreme Courts and Sudder Dewanny would be 80 affirmed, 51 reversed, and 8 varied. This, of course, is no very accurate criterion of the correctness of the decisions, comparing the Supreme Courts and the Sudder Court, for various reasons. In the first place, the appeals from the Sudder Courts are frequently for the purposes of delay. It may be more profitable to appeal a case with all the expense attending it, for the purposes of delay, in order that the parties may gain by that delay the means of disposing of the property in the suit. Another reason is, that from the Sudder Courts parties appeal constantly upon matters of fact. The Committee is aware that the evidence in the Mofussil Courts, though I fancy some alteration is now contemplated, is not taken, generally speaking, *vivâ voce* in the presence of the judge who hears the case; it is taken by officers of the Court, and the judge has to decide upon the evidence in its written form; of course, an appellate Court has the same materials of forming an opinion upon matters of fact, where they are on paper, as the original court, and therefore, upon matters of fact on paper there is more reason to appeal to another tribunal; it has the same materials of judging. That is the case in appeals which come before the Privy Council from the Ecclesiastical and Admiralty Courts in this country. The evidence is taken in the same way; and in such cases the Privy Council has the same power of

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of forming an opinion upon matters of fact on paper as the original tribunal had. In the Supreme Court, the Committee is aware, the evidence is taken *vivâ voce.* When I was before the Committee on a former occasion, I pointed out the mode in which it was taken. The judge hears the evidence, takes notes of the evidence, and gives his opinion upon matters of fact. In civil cases, the Committee is aware, there is no jury in the Supreme Court in India, but the judges are judges of matters of fact as well as of law. There is therefore less reason for appealing upon matters of fact to any appellate tribunal, than where the evidence is taken merely upon paper, and where the appellate tribunal would be equally able to judge as the original tribunal. I need not say that the Privy Council, being composed of English lawyers, accustomed to oral evidence, would be very unwilling to reverse any decision from the Supreme Courts of India upon matters of fact, presuming that those who heard the witnesses would be the most competent judges; they would not be so unwilling, perhaps, to deal with the evidence taken in the manner in which it is taken in the Mofussil Courts, merely upon paper, though there, I must say, they are extremely unwilling, generally speaking, to reverse decisions upon questions of fact, considering that those who preside in the Courts below are generally better conversant with the manners, and habits and customs of the natives, and are therefore very much better judges of matters of fact than the appellate tribunal in this country could be; and there is great reluctance, indeed I hardly recollect an instance, during my experience, of the reversal of any judgment in the Mofussil Courts upon matters of fact. There is another reason why there should not be the same number of reversals in appeals from the Sudder Courts. The Supreme Courts have to administer a technical system of law; they have to follow the rules of the English Common Law on the Common Law side of the Court: and to follow the established rules, and principles and practice of pleading established, both in Courts of Law on the Common Law side, on the Equity side, and the Ecclesiastical side. Therefore there may be appeals upon what may be termed, to a certain extent, technical questions of law and forms of pleading, and there may be reversals from the Supreme Courts upon that more strict and technical system, perhaps altogether independent of the real and substantial merits of the case. That is not the case in appeals from the Sudder Court, because it is the invariable practice of the Privy Council, in appeals from the Sudder, to search out, as far as they are able, what is the substantial justice of the case, and to see whether substantial justice has been done in the case, independently of all forms of procedure and all technicalities; and wherever they are satisfied that substantial justice has been done the judgment appealed from is confirmed. They have not the same power of dealing with cases from the Supreme Court, owing to the technical system of law which they are bound to administer in those cases. I am now giving reasons, shewing why there are a greater number comparatively speaking, of judgments in the Sudder Dewanny Court affirmed, than in the Supreme Court. The Committee, therefore, must not take the actual returns as a strict and absolute criterion of the mode in which the two courts administer justice.

2652. Mr. *Ellice.*] Therefore, in fact, more substantial justice is done as regards the merits of the case in appeals from the Sudder Courts than in appeals from the Queen's Courts in India?—I cannot say that more substantial justice is done; there may be cases where a technical law of either pleading or practice might oblige the Court above, independently of the merits, into which they would not then enter, to reverse the judgment; whereas no such technicalities of any sort or kind would enter into their consideration, where the appeal was from the Company's Courts.

2653. My question refers exclusively to the merits of the case?—In the one case the merits would be entered into; in the other case they probably would not.

2654. As respects the result of those appeals it must be more satisfactory, so far as the ends of justice are concerned, in the cases from the Sudder Adawlut Courts than from the Supreme Courts?—Certainly, in that respect; that is owing to the technical procedure which exists in the English Courts.

2655. Mr. *Mangles.*] You might reverse an appeal upon technical points against the real merits of the question?—That is quite possible, and it often happens in the courts of this country.

2656. *Chairman.*]

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2656. *Chairman.*] I understood you to say that there were reasons why the appeals from the Company's Courts should be more frequent than from the Supreme Court, for purposes of delay?—Yes; the mode of procedure in appeals from the Supreme Court is this; the petition of appeal is presented to the Court, and the grounds of appeal carefully set forth; that is signed generally by two barristers, who attest, by their signatures, that there is good ground of appeal, and that there are matters for the consideration of a superior Court, and that the judges in the Court below have upon those matters miscarried. There is, therefore, that restriction upon appeals, that a barrister, I suppose, would not put his name, recommending an appeal for any purposes but those of a substantial nature, he thinking that the judgment in the Court below was erroneous.

2657. Mr. *Mangles.*] Is it the case that, upon a decree by the Sudder Court, from which there is an appeal to the Queen in Council, the decree is not executed before it comes home?—Sometimes they are executed, and sometimes security is taken; the case is dealt with according to what may be the views of the Sudder Court upon the particular case, and the applications made to it by the parties.

2658. Either the decree would be executed, or the parties would give ample security?—The question of giving good security is often one of difficulty; they do give what is supposed to be ample security, but it is in the giving of this security, which sometimes turns out to be anything but a security, which leads to appealing for the purposes of delay, and answers the ends of the parties in the Court below. It sometimes gives rise to a subsidiary suit, whether the sureties given in are substantial persons or not, and it is one of the great causes of delay in transmitting appeals from the Company's Courts in India.

2659. Mr. *Macaulay.*] Is there no check of any sort, such as the signatures of two barristers, before an appeal is sent from the Sudder Courts to the Judicial Committee of the Privy Council?—I think there is no formal check of that sort; the vakeels, who practise in the Court, would recommend the appeal, but the check is not of the same nature or force.

2660. Is the appeal a matter of right?—Yes, both in the Supreme and the Sudder Courts, where the amount exceeds a certain sum.

2661. Do you recollect what the sum is?—£.1,000.

2662. Would it be worth while for a person to appeal to the Supreme Court for a less sum than 1,000*l.*?—That would depend upon circumstances; sometimes it would be worth while, because it may decide a class of cases, as has lately happened in the great opium cases in India.

2663. *Mr. Elliot.*] Would not the precaution which is taken by the Supreme Court, of requiring the signatures of two barristers before the appeal is presented, rather act as a reason why the appeals against the decisions in that Court should be less frequently reversed than in the Sudder?—No, because cases are carefully considered as to whether they are fit cases for appeal, and only are appealed from if the barristers after full inquiry into the case think there are substantial grounds, it is therefore probable that a greater number of those cases will be reversed.

2664. Mr. *J. Fitzgerald.*] Is the certificate signed by two barristers, as is the case in the House of Lords?—Yes.

2665. You require a case presented to the House of Lords to be signed by two barristers who have been engaged in the case?—Yes.

2666. That has a natural tendency to check any appeals from the Supreme Court, but those where, in the judgment of two barristers, there is good ground for appeal?—Yes.

2667. *Chairman.*] Have you any further observations to make to the Committee?—No.

Sir *Erskine Perry*, called in; and further Examined.

Sir *E. Perry.*

2668. *Chairman.*] IN your evidence the other day, you mentioned the age at which judges in the Company's Courts who decided appeals had that authority. Are there any facts or any addition to that evidence which you wish to place before the Committee?—The statement which I made of a matter of fact which I have seen with my own eyes appears to have been doubted, and, in fact, I believe was contradicted by a gentleman who has been before the Committee. I took

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I took pains therefore, when I went home, to verify by record the statement which I had made. I find it stated by Mr. Hill, the judicial secretary at the India House, that "an English judicial officer becomes a judge in an appellate Court before he has sat as a judge in a Court of original jurisdiction. This has been complained of, but I do not see how it can be remedied. The civil service is too great a burden to the State already, and you could not increase the number of civil servants." That is in the Blue Book, published by the House of Lords; but there is a Return made to this Committee from the India House, showing the number of original suits and appeals decided by the judges and by the assistant judges in the Presidency of Bombay during the year 1849. The question in dispute, I apprehend, was whether young men of three or four and twenty years of age sat as judges, and whether they sat in appeal. I have made an abstract of that Return, which shows the following facts: Mr. Forbes in that year tried eight original suits, and 292 appeals. His length of service, which information I obtain from the Directory which was put into my hands the other day, was six years. Mr. Rogers, of Surat, tried five original suits, and 235 appeals: his length of service was four years. Mr. Lloyd, of Tannah, tried five original suits, and 126 appeals; his length of service was five years. The same gentleman, at Rutnagherry, tried no original suits, but 44 appeals. Mr. Corfield tried one original suit and 477 appeals. Mr. Newton tried no original suit, but 615 appeals. Mr. Leighton no original suits, but 22 appeals. This gentleman's length of service was three years; and so the Return goes on: the result being that those assistant judges in that year tried 28 original suits and 2,272 appeals. The length of service stated here does not of course show how long they had been serving as judges, but you will find one young man of only three years' service acting as an assisting judge, and I believe the age at which a young man enters the service in India is between 20 and 21; therefore it is quite clear that this young gentleman could not have been more than 23 years of age in the year 1849, and he might have been sitting for a year previously as an assistant judge.

2669. Do the assistants to the judges in Bombay sit upon appeal?—There is no such class of officers there.

2670. Does that paper show the class of people from which the appeals are brought?—No; the assistant judge sits upon appeals on cases from the subordinate native judges, the sudder amin, the principal sudder amin, and the moonsiffs; he sits in appeal upon such cases as the judge assigns to him; but the term "assistant judge" seems to have led some Members of the Committee to suppose that he is a mere assistant to the judge, whereas what I desired to throw out was, that he sits as a judge, and decides the appeals which come before him.

2671. Mr. *Mangles.*] Are you confident that the assistant judge does hear appeals from the sudder amins and the principal sudder amins?—I believe Mr. Reid, who has been summoned before the Committee, will state such points more accurately than I can.

2672. Mr. *Macaulay.*] Do the assistant judges hear any appeals which are not specially referred to them by the zillah judge?—I do not know how that part of the business is managed.

2673. Mr. *Elliot.*] You have stated that selected cases are made over from the judge to the assistant judge?—I presume the judge takes the more important and heavier cases, and assigns the smaller ones to the assistant judge.

2674. Mr. *Macaulay.*] The zillah judges are generally persons of mature age and long experience, are they not?—Yes, 20 years' standing; I ought to mention, perhaps, that many very good authorities in India think that this system of the young men going into the judicial office at 23 years of age is a better one than exists in other parts of India; that it is better than men going into the judicial office after 20 years of service in another department.

2675. Mr. *Mangles.*] Is not it the case that a judge at Bombay and elsewhere is not merely a judge, but also a manager as it were of the civil business throughout the district; and that he has the power of choosing such appeals as he will hear himself, such as he will send to the principal sudder amin or the sudder amin, and such as he will send to the assistant judge?—He is the head of the office; they are all at the zillah town, and no doubt the judge has great power in the arrangement of his list.

2676. Is not that part of his duty; and was not the object of taking away from the

the judge the principal part of the primary suits to leave his hands free to manage those matters with regard to the allotment of appeals and the superintendence of the whole civil and criminal administration of the district?—As I have already shown, the European judges have no original jurisdiction in fact; the statement here shows that there are not two per cent. of the original suits decided by any European.

2677. Is not the system directed to that end, to relieve those highly-paid functionaries from any primary jurisdiction, on the belief that their time will be best and most profitably employed in managing the administration of justice, and seeing that the appeals are properly allotted and properly heard?—I do not know the reasons which led to those arrangements, of course.

2678. Sir *T. H. Maddock.*] To what tribunal are those decisions of the assistant judges on appeals appealable?—In some cases to the judge; in some other cases of larger amount they are appealable to the Sudder Adawlut.

2679. The judgments of the zillah judges are appealable only to the Sudder Adawlut?—No.

2680. Are you aware whether the decisions in appeal of the Sudder Adawlut are reversed in any greater proportion in cases which come up from the assistant judges than those which come up from the zillah judges?—I do not know. All I know on the subject is, the matter of fact which I have stated, that the decisions of the native judges are found to be better than the decisions of the European judges; that is the experience of the practitioners in the Sudder Court; that is the statement which they make in open court before the judges, as the judges themselves inform me.

2681. Mr. *Hardinge.*] Up to what amount can an assistant judge in Bombay decide in civil cases?—I apprehend he can decide to any amount on appeal.

2682. To what amount in original jurisdiction?—There is no original jurisdiction, except in a certain class of cases called reserved cases.

2683. *Chairman.*] Have you anything to add to your previous evidence as to the case of Nursoopunt?—I made an unfortunate allusion the other day to a case which is the subject of controversy, and I quoted it from memory. I wish to correct a little inaccuracy in the statement that I made, as to the point on which he was convicted. I have stated that he was convicted of having improperly used Mr. Reid's name, but I find, in the final judgment of the Court, that that was considered trumpery, and that he was only found guilty of one charge in fact, which was pointed out to me on the last day I was here, as being a very important charge; but, on referring to the judgment of Lord Falkland, it corroborates the opinion which I have ventured to give, that it was a very venial matter. On charge the second Lord Falkland thus writes: "On mature consideration of the whole of the above cases, I have come to the following conclusion, that, if we except the charge of having misled Colonel Outram himself, Nursoopunt has in this case been convicted of having, in his abridgment of proceedings, which he prepared for the Resident, omitted to specify a fact notorious to all who have acquaintance with any Hindoo law, namely, that the sum of interest which may be charged on a loan should not exceed the amount of the principal;" and I should add that a member of the Government, who alone had the judicial arrangement, Mr. Bell, a gentleman who had been a judge for thirty-six years, gave his clear opinion that he ought to have been acquitted upon all the charges. I merely gave this illustration, for the purpose of calling the attention of the Committee to a subject which I know is grievously complained of by the native officials, namely, that no fit tribunal is offered them for the trial or investigation of cases in which charges are brought against them; and my opinion is, that they have some ground for this dissatisfaction. A native gentleman, of large fortune, in Bombay, whom I advised to place his only son in the Government service, a very well-educated young man, gave me as a reason for not entering him in the Government service, a fear of his being turned out in disgrace on some small point on which he might give dissatisfaction to his immediate superior. As a question of good government, I thought it very proper to bring the subject before the notice of the Committee at the present time.

2684. Sir *R. H. Inglis.*] You have used the word "trumpery," as applied to a decision of the Court, in respect to a particular charge. Do you mean that that word was used in the decision?—I think, if you will read the decisions of the judges in appeal, that is the effect of it; the word "trumpery" was not used.

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2685. Mr. *Elliot.*] Are you not aware that, whatever the feeling at Bombay may be, in the greater part of India the greatest dread of a person of respectability is being brought into a court of justice at all?—Yes, I am aware of that fact.

2686. Are not you also aware, that those persons would infinitely rather have an inquiry into their conduct by a person appointed as a commissioner so to inquire, than be brought into a court?—Yes; I think this late Act of 1850 is an improvement upon the previous procedure; but I think it is not by any means so good as it ought to be, and as it would be if English functionaries of rank were tried under it.

2687. Mr. *Hume.*] Are the Committee to understand that, in your opinion, if the natives were better paid, and had the assurance of being better protected in the execution of their duties, and of having a fair trial by persons of a superior class, where fault was found with them, the service of the natives would be thereby very much improved?—Undoubtedly.

2688. Mr. *Mangles.*] Is it within your knowledge that any native judges, who have been charged with any sort of malversation, have not had a perfectly fair and formal trial?—I partake of the opinion entertained by many members of the civil service, that it is very difficult to get a fair trial of a man of that kind, if some young, ardent administrator takes up the case against him.

2689. That young and ardent administrator would not be the judge in the case. In the case of a principal sudder amin charged with malversation, would not the Sudder Court determine it?—No, I think the zillah judge would decide the case.

2690. Is it the case at Bombay that the zillah judge has the power of removing a principal sudder amin, or a sudder amin?—A sudder amin, I think he has; I think the removal of the principal sudder amin belongs to the Sudder.

2691. Does not it belong to the Government itself on the report of the Sudder?—There is a distinction between the different ranks; I do not quite recollect what it is.

2692. You drew a distinction between the manner in which a high native functionary and a high European functionary would be dealt with; how is a civil servant accused of malversation tried?—A civil servant accused of malversation would be tried, no doubt, before the Supreme Court and a jury, just as in this country.

2693. If the Government eventually determined to proceed criminally against him that would be so; but for the purpose of depriving him of his appointment, how would he be tried?—I am happy to say that no civil servant was tried for malversation during my period of service, so that I cannot answer the question.

2694. Do not you know what the law on the subject is?—They have some power, I suppose, of issuing a commission.

2695. Mr. *Macaulay.*] Are not you aware of cases in which civil servants, accused of misconduct, have been examined before a commission specially appointed by the Government, and in which, on the report of such commissioners, they have been turned out of office?—I have heard of such cases.

2696. Are not you aware that there actually have been such cases?—At the present moment I cannot recall to my mind any case of the kind.

2697. Mr. *J. Fitzgerald.*] The Committee understand from your evidence, that you have not only acted as judge of the Supreme Court of Bombay, but have travelled a good deal through India?—Yes, I have travelled a great deal.

2698. And that you generally disapprove of the judicial system which is now at work there?—Yes.

2699. Will you tell the Committee, from the inquiries that you have made, whether there is anything in the present constitution of the Indian Government which has a tendency to check judicial or legal reform?—I think the great evil in the judicial system of the Company is, that the high judicial servants, or the European judicial servants, are all taken from the civil service, who are sent out to India at a very early period of life, and who, by the arrangements I have described, have not the means of becoming good judges.

2700. The question refers to the constitution of the present Indian Government. Is there anything in it, in your opinion, which checks judicial or legal reform?—Undoubtedly so. The civil appointments being in the hands of the Home Government, I think that any scheme which might be proposed, such as I should

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I should propose, and as I have suggested to the Committee, for selecting judges from a different class, either from the natives, or from the bar at home, would not be likely to meet with a very favourable attention from the hands of gentlemen who are remunerated by their patronage.

2701. As I understand from other evidence which has been given, if any code is proposed, it has to be referred to the Home Government, to be submitted to the Board of Control, and also to the Board of Directors. Do you see anything in that system which has a tendency to impede judicial and legal reform?—Judging by my own experience for the last 12 years, I have found in the present system great obstacles to the introduction of legal reforms. I have found those obstacles; and I attribute them, of course, to the form of Government.

2702. Will you be good enough to state what those obstacles are which you have experienced yourself?—The judges of the court to which I belonged, for example, were continually addressing applications to the Government to improve the efficiency of the court, to reduce the expenditure, that they might take upon themselves more duties, and to prevent other courts, of what they considered an inferior character, being substituted in their place. All those attempts were fruitless.

2703. In what manner were those attempts defeated?—In one case, for example, the judges of the court introduced a system of summary jurisdiction to a greater extent than had before prevailed. In sending up the rules to the Supreme Government, which were necessary to make the system work, it was stated that the judges had done all they could to introduce an improved system of judicature; but that to introduce a more efficient and complete system, the assistance of the Legislature was required. Thereupon the Supreme Government requested the judges to frame an Act to carry out those views. An Act was accordingly framed, which was read a first time in the Supreme Council; but it was afterwards intimated to the judges that orders from the Home Government had come out to prevent any such Act being passed. Another example is, that when the Home Government ordered, as we understand, that an Act should be passed for establishing a court similar to the County Court here, in Bombay, on the opinion of the judges being given that the Act would not be an improvement in Bombay, and on the Government giving an opinion to the same effect, and on the natives of Bombay petitioning the Home Government to prevent this new Act being introduced, the Act nevertheless was passed, and it was intimated to us that it was by the orders of the Home Government that such proceedings took place.

2704. I have before me a pamphlet which has reference to Madras; I wish to ask you a question or two in reference to Bombay; I find it stated here that when a collector is old enough he is made a judge, and to this step there is almost no exception, if it is wished for: from your knowledge of the Bombay Presidency is that the case at Bombay?—I recollect living with a collector in the North-western Provinces who expressed exactly the same opinion, that he should apply for a judgeship because it was a step in advance, and he was entitled to it from his seniority; he was afterwards made a judge accordingly. In Bombay such a state of facts would not exist, for a collectorship there is as well paid, perhaps better, than a judgeship; but in the North-western Provinces the pay of a judge is rather higher than the pay of a collector.

2705. I find also another passage to this effect; that some who mismanage their districts are sent to be promoted to be judges against their will; have you ever known any such case as that taking place in the Bombay Presidency?—There was a very striking case of the same sort; a gentleman was placed in the Sudder Adawlut, because it was understood that he had given dissatisfaction in the revenue department.

2706. Dissatisfaction, in what manner?—I suppose nothing at all affecting his moral conduct; but some hastiness.

2707. A man might be very unfit for the revenue department, and yet make a good judge; are you able to state what was the cause of dissatisfaction which led to his removal from the revenue department to the judicial bench?—It is a case which occurred during my residence in India. I think it was some hastiness or petulance of conduct which gave dissatisfaction; he was then placed in the Sudder Adawlut; he had never previously been in the judicial department at all.

2708. In some of your answers to previous questions you suggested, as a better

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better source for selecting judges from, that they might be taken from the local bars here?—Yes.

2709. Your attention was called to the difficulty in reference to their ignorance of the language; do you think if a local European and native bar were encouraged in the Sudder Courts, you would not have a better means of selection of judges from them than from either the English, Irish, or Scotch bar?—It is a great advantage to the administration of justice to have a few men going out from this country at a somewhat mature period of life, and imbued with all the notions of the most advanced state of public opinion in this country. Therefore I think a few English judges going out in the way I have suggested would be a great advantage to the whole judicial system.

2710. As a general rule, do not you think they might be better selected from the local bar, provided the local bar were encouraged with the prospect of such promotion?—Yes; if the local bar is large enough, you would have a better source to apply to, to obtain qualified judges.

2711. Would not the local bar be increased in number, if such inducements as those which have been pointed out to you were held out?—Undoubtedly; the young natives also would be eligible for the same position. In the scheme I have ventured to suggest for the filling up of the zillah judgeships, I have also contemplated that natives, when found competent, would be raised to that office.

2712. Supposing such inducements as have been pointed out were held out to the local bar, in addition to having a good supply of competent advocates, do not you think that such parties would be induced to learn the vernacular languages?—Undoubtedly; and you might also add a most effective stimulus, by making the salary in some degree dependent upon it; making it 2,000 *l.* a year at first, to be raised to 2,500 *l.* or 3,000 *l.* on the acquisition of the native language.

2713. In the case of the English bar, up to a recent period, it was altogether self-taught, but you have had from that bar judges of the highest character and reputation. Would not such be likely to be the result in India if you had an extended local bar, consisting both of Europeans and natives?—Undoubtedly.

2714. Do you yourself think, as a matter of judgment, that it would be more difficult to become acquainted, as English lawyers have done, with the system of special pleading, and the law of real property, than with the native languages?—I think any clever barrister, beginning a native language at 28 or 30, would have very little difficulty in making himself sufficiently master of it, in a twelvemonth, to be a very well qualified administrator.

2715. Mr. *Hardinge.*] And with the manners and customs of the natives as well?—I do not think any of us are thoroughly conversant with them after 30 years' residence in the country.

2716. Mr. *J. Fitzgerald.*] Is there any mode in which a party here could become acquainted with the science of land tenures in India?—No.

2717. Would an intimate knowledge of the science of land tenures be essential to form a good English judge?—Questions of tenure come principally before the collector, and are decided by him in a court of summary jurisdiction; they do not come before the judges. I may add, with respect to the zillah judges, the number of appointments in question are extremely few. I have shown that there are about 84 zillah courts, and the appointments to fill up those courts, if they were taken from that country, or from this country from the local bar, would not exceed more than four or five per annum, which is a very small number to supply.

2718. With respect to the system of procedure in the Sudder Courts, the Committee understand from your previous evidence that one great want in the administration of justice in India is some new and simple code of procedure?—Yes.

2719. Am I right in stating that the present system, in point of fact, is a cumbrous, complicated, and expensive system?—I think so.

2720. And most tedious?—More so, I think, than the English system.

2721. Do you think that it would be necessary to the due administration of justice, that there should be some code of procedure which would embrace simplicity and economy as well as expedition?—Certainly: also, of course, with the power of appealing in all cases above a very small amount.

2722. Till you have a procedure of that kind is it possible to have justice well

well administered in the civil courts there?—I think it is very essential to a due administration of justice to have a more simple and economical system of procedure.

2723. It has been stated by other witnesses that the system of pleading is very cumbrous; parties are allowed to encumber their pleadings with allegations quite foreign to the matters in dispute; have the parties to take out copies of those pleadings?—I do not know.

2724. You have said, in reference to questions of tenure, that the judges of the zillah courts have not questions of that kind brought before them?—Not ordinarily.

2725. Is not there an appeal from the summary decision of a collector to the ordinary judicial authorities?—I think an appeal lies from the collector to the commissioner of revenue; there are certain cases where, if a law point occurs, an appeal will lie to the judge; but in the more numerous cases the appeals from the collector lie to a different authority.

2726. I observe in the returns which are already before the Committee, that a large per centage of the cases which come before the zillah judges do relate to questions connected with land tenures; is not that so?—A number of cases must come before the judges.

2727. Referring to the answer you have given as to the expediency of appointing English judges, is there any mode in which an English judge, or a judge before he goes to India, could be at all made acquainted with the science of law tenures in India?—No; I think the best mode of acquiring the knowledge of any particular customs as to land tenures, is by means of skilled witnesses giving their evidence before the judge at the trial; just as in this country a judge trying the question of tenant right, which may vary in different counties, would hear from skilled witnesses the most accurate opinions upon the subject, and decide between them.

2728. With respect to the mode of taking evidence, there is a statement in Mr. Norton's pamphlet, at page 90, to which I wish to call your attention; he says, "Meanwhile, seated on the floor in one corner, may be seen a native writer jabbering to another native squatted immediately beside him, and writing as fast as the man can talk; should a stranger be tempted to inquire what is their occupation, he would learn that an officer is taking a deposition in a criminal case from a witness. The most abominable trash is taken down; it is then read out to the witness, and attested by the magistrate." Does such a system of taking evidence as is there described prevail in the Bombay Presidency?—I believe that that is the fact; and I think you will find it stated also, in the returns of one of the judges in the Appendix to the Blue Book, that such a state of facts exists generally throughout India. The English judges have not time to take the evidence; therefore subordinate officers of the court are appointed to takethe evidence of witnesses, three or four at a time, in different parts of the court.

2729. You say that the English judges have not time to take the evidence?—That is the cause alleged generally.

2730. Must not it take more time for the English judge to hear the evidence read over to him, sign it, and afterwards consider it, than to have it taken in the ordinary course, *vivâ voce*?—I have no doubt that a good system of procedure with oral evidence would be found shorter in the end; I only state the cause which is alleged for the practice.

2731. The judge would then confine the evidence to proof of the topics in issue before him?—No doubt.

2732. I will describe the system to you which prevails in our local courts, and ask you your opinion as to whether it would be suitable to the lower courts in India. The evidence is taken, *vivâ voce*, before the judge of original jurisdiction; if there is an appeal, the same witnesses go before the appellate judge; there is nothing on paper at all except the summons in the cause. Do you consider that, for the inferior courts in India, that would be a better system than the present system of taking evidence in writing?—A far better system. Nothing can be worse than a judge in appeal sitting to decide matters of fact, upon written evidence, which have been decided below by the judge of first instance, who has heard many of the witnesses himself.

2733. In regard to appeals from the moonsiffs' court and from other courts to the zillah judge, have you any suggestion to make to the Committee by which

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which the frequency of those appeals, which tend to such delay and expense, might be checked?—I think the most effective system to introduce into India, to prevent the great number of appeals which take place, and lead to a better administration of justice, would be to entrust summary jurisdiction, up to a very small amount, to your highest functionaries, your collectors, your magistrates, and your judges; giving them a jurisdiction which should be summary without appeal, up to a very small amount, say 15 or 20 rupees. By that means you would apply your most experienced minds to the determination of those small causes which are all-important to the poor, and which of course ought to be as well decided as our system will allow. The only means of getting them well decided by a cheap procedure is to make your most experienced judges undertake the duty.

2734. Is there, according to the present system, any security taken in cases of appeal from the decision of the moonsiff to the court immediately above?—I am not aware of it.

2735. Are the natives or not admissible, either as attorneys or advocates, in the Supreme Court?—They are admissible.

2736. Are they admitted?—As barristers they can only be admitted at present by coming to England, and being admitted at Lincoln's Inn or the Temple, which, of course, operates as a practical exclusion. They are admissible as attorneys, if the attorneys choose to article them as clerks; and up to the present time, or at least up to a very recent period, the attorneys did not choose to admit them to articles; before I came away, however, one or two were admitted, and I think we have broken through the monopoly.

2737. From the opportunities you have had of judging of the native capacity, do the natives exhibit a capacity for learning the science of law?—I think they have a remarkable capacity for legal reasoning.

2738. With regard to the new court you have suggested to be formed, by an amalgamation of the Supreme Court and the Sudder Court, would you think it desirable that the natives should be freely admitted as advocates in that court, with a view to their subsequent admission to the Bench also?—I think the most obvious dictates of justice require that they should be so admitted.

2739. You see no danger in adopting such a course as that?—I see great danger, on the other hand, in adopting the other course of excluding them from all offices of emolument and honour.

2740. Mr. *Macaulay*.] Is it by Act of Parliament that they are excluded from being attornies?—They are not excluded by law.

2741. Then the judge of the court might admit them, might not he?—We have to follow the clauses of the Act of Parliament.

2742. Is being articled made necessary by the Act of Parliament?—Yes.

2743. Mr. *Cobden*.] Some doubt was expressed by an Honourable Member of the Committee at the last examination, as to the practicability of finding members of the bar in England, who would accept the office of judge in India, for 3,000 *l.* a-year; are you still of opinion that there would be no difficulty?—Since I was examined, I have had an opportunity of conversing with the heads of the profession. I asked their opinions upon that point, and was authorised to use their names; they informed me that, so far from there being difficulty in finding four or five per annum, 40 could easily be supplied from the ranks of the bar; competent men.

2744. Without any retiring pension?—I should presume the retiring pension the zillah judges now get, would be given to English judges of a better stamp.

2745. After the same period of service?—Yes.

2746. Mr. *Macaulay*.] Is not the period of service 25 years?—Yes.

2747. You would hardly probably, thinking as you do, that it is desirable that young men should not be entrusted with important judicial functions, wish the age of the zillah judges to be reduced below what it now is?—No.

2748. Are not the zillah judges now, with scarcely an exception, at least 40 years old?—I suppose so.

2749. In that case, could any English barrister look forward to his retiring pension till he would be at least 65?—I should think a zillah judge, taken from the bar at 30, would perform the duties much better than the judge at 38 or 40 who now performs them; and I should consider that the pension would be attained at an earlier period than 24 years. A zillah judge pays for half his pension by deductions from his salary, the other half being granted to him

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by the East India Company; therefore, the new judge deriving a larger salary from the first, he would be much more able to pay for half of his pension, and would obtain it sooner than a zillah judge who has been in a much less remunerative position.

2750. You conceive that an English barrister at 30 would be, on an average, better qualified to administer justice as a zillah judge than a Company's servant at 40?—Yes; who had not been in the judicial service before that period. A zillah judge does not go into that employment, in most parts of India, till he has been 20 years in a different employment, not judicial.

2751. He has been generally in the Revenue Department?—Yes.

2752. And in that capacity has had to decide important questions of land tenure?—Yes.

2753. He has also been a magistrate?—Yes.

2754. And has therefore been called on to administer criminal justice?—Yes.

2755. The judicial faculties which are required in a judge do not probably differ materially from those which enable a man, as a magistrate, to administer criminal law, and, as a collector, to decide questions of land tenure?—No, I suppose not; still, with all this, taking the system as it stands, the results, as is proved by experience, have not been satisfactory; therefore, to introduce better results, I think we should look to the other expedient.

2756. Sir *R. H. Inglis.*] You have referred to the disadvantage of a judge in appeal deciding upon written evidence in a case which had been previously decided by the judge of the court below on *vivâ voce* evidence; is not that an incident necessary in the case of almost all appeals, whether to the Privy Council in England or to the House of Lords, or to any other conceivable court in which a right of appeal can be given to the subject?—I think not; in cases of appeal in this country there are very few appeals on facts. If there is an appeal on facts in a case at the assizes, the course is, not to come to a different judgment to the court below, but to grant a new trial, in which the facts will undergo a fresh investigation.

2757. In reference to the question more immediately under the attention of the Committee, namely, the administration of justice in India, does the same difficulty occur, whether more or less frequently, in an appeal to the Privy Council or the House of Lords in England, that occurs in the case of an appeal from an inferior court in India to the Supreme Court in India; is not that a necessary incident of a right of appeal?—No; if the judgment of the court below appears unsatisfactory on the facts, our course of proceeding is to remit the case for a new trial; and it appears to me to be a much better mode of dealing with a case which does not appear satisfactory to the court above. It is not therefore necessary that a court of appeal should decide upon written evidence.

2758. Mr. *Cobden.*] Is it your opinion that no one should be appointed to the office of judge in India who has not had a regular legal education either in this country or there?—I think so.

2759. You think that a judge should have a regular training in the practice of law, in the same way as a shoemaker or a person engaged in any other trade, requires an apprenticeship and special study?—I think so.

2760. Mr. *Hardinge.*] Is not a knowledge of three dialects required in the Bombay Presidency. Mahratta, Guzzeratee and Canarese; and sometimes Hindostanee also?—Yes.

2761. A perfect knowledge of those dialects would be required of a person holding the office of a judge on the bench?—No doubt it would be a great acquisition to a judge on the bench to know those languages, and two others might be added.

2762. Could a barrister attain that knowledge in one year?—I do not think that any English official could attain or has attained that knowledge in our Presidency, so as to be able to administer justice in all those languages.

2763. Mr. *Mangles.*] Are not there many who know one, two, or three of those languages?—You may find two or three in the list who passed in four languages, and many who have passed in two languages; but that by no means shows that the man is conversant with those languages.

2764. So not having passed at college in more would not show that he had not subsequently acquired them?—No; some of our best administrators in India have not passed in any language.

2765. Has

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2765. Has that been the case recently?—Yes; at least in my time. I believe one of our best police magistrates in the Bombay Presidency at the present time can hardly speak Hindostanee grammatically, yet he makes himself intelligible to every person as he goes along, and is better acquainted with the habits of the people than almost any one in the service.

2766. Mr. *Hardinge.*] You do not think that a very perfect knowledge of languages is required to fill the office of judge?—I think it is a great requisite, but it is not to be attained by Europeans, where so many languages are prevalent. I have frequently had six languages in one trial before me in the Supreme Court in Bombay. In the North-western Provinces, where only one language is prevalent, I have no doubt the administrators are thoroughly acquainted with it: but where so many languages exist, a man is removed from one district, where Mahratta is spoken, to another where Canarese is spoken; he cannot make himself master of all those various dialects.

2767. Sir *T. H. Maddock.*] You stated, on the last occasion when you were before the Committee, that the administration of justice in the Supreme Courts in the English language gives great satisfaction to the natives, and is attended with no difficulty. You also gave an opinion that the substitution of the English language for the native languages in the zillah courts might take place to-morrow. It is understood that in the Presidency towns in India there is a very large proportion of the natives who are intimately acquainted with the English language, but that in the zillah towns and in the country generally the proportion of persons who understand the English language is infinitely smaller; therefore the Committee wish to know on what grounds you come to the conclusion that the use of the English language might be immediately substituted in the zillah courts for Hindostanee, or whatever may be the vernacular language now employed?—My meaning was this: that if the English language were substituted as the language of business in the zillah courts, the course of procedure would be to supply the English judge with a couple of interpreters, who would be in the court with him; he would take all the evidence *vivâ voce*, and not in that defective method which has been referred to; of course it would be seen and heard by the public; he would record the evidence in English, and at the end of the case he would give his decision, which would be notified in a translation to the public who were present. Therefore the whole of the procedure at present might be conducted in the English language, and that would be far more economical to the suitor by the speed with which it would be got through, and afford great facility of appeal to the court above, by its being recorded in a language which they understood.

2768. Would not it occupy much more time?—I think not; I think it would occupy a much shorter time.

2769. Would not it place the great majority of people, who are ignorant of the English language, very much in the hands of a few who do understand that language, and of the interpreters who interpret to the judge?—All this is done in open court; and any mistranslation by the interpreter would be checked, first of all by the knowledge of the judge, who is supposed to know the language; and secondly, by the interest of the suitors who are attending, stimulated by the most powerful motive a man can have to be attentive; namely, self-interest.

2770. You suggested in your evidence the other day, that each Presidency ought to have the power of local legislation, somewhat upon the same footing as that which existed before the Act of 1834?—Yes.

2771. What limit would you propose to place upon such local legislation, and in what authority would you vest a control over it?—I think the controlling authority for the local Presidencies should be in the Home Government. A suggestion was made, that such local government should frame an annual budget every year for the expenses of the next, and on authority being given from the Supreme Government at home, the limits of that budget being at the disposal of the Government. The check which the Honourable Member suggests would then be applied.

2772. How would you provide against the liability to contradictory legislation in the different Presidencies?—I presume, of course, that the local Legislature would only legislate on local subjects: on weights and measures for instance, municipal constitutions, and all other local matters occurring within that Presidency.

2773. You

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2773. You mentioned the other day that in the Supreme Courts the Hindoo law of succession is invariably followed; have any enactments of the Legislature of late years made any alteration in that Hindoo law of succession?—Yes, in the case of conversions to Christianity.

2774. What do you consider to be the effect of those alterations, as bearing upon the office of a judge who is bound to administer the Hindoo law of succession to Hindoos, and is also bound to administer the English law as dictated by the Legislature at Calcutta?—The Legislative Council of India, as now constituted, has the power to repeal Acts of Parliament, and therefore, if the Legislative Council frames an Act of that kind, it does away of course with the previous state of things; whether the Legislative Council should have such a power or not is a question for Parliament.

2775. What is your opinion upon that point?—I think it is very desirable to give them full powers of legislation, if there is to be a central Legislative Council; but I think it is extremely desirable to define the limits to which they may go. There are several questions now, *sub judice*, as to their powers. The Honourable Member may recollect that Mr. Bethune claimed a power for the Council to pass all kinds of Acts. Lord Dalhousie, in a very judicious Minute, pointed out that they were after all only a subordinate Legislature, and that they ought to be very cautious as to the extent to which they assumed to pass laws. If Lord Dalhousie had followed Mr. Bethune's views, the Legislature of India would have been altogether supreme.

2776. Has not the Imperial Legislature acknowledged the right of the Hindoos to the observance of their laws of inheritance and succession?—They have stated, in two or three Acts of Parliament, that such laws should be preserved to them.

2777. Was it then consistent with those Imperial Acts that the Legislature of Calcutta should have enacted laws of a very contrary tendency?—Looking at the Act with an English eye, I cannot myself conceive that the Legislature precluded themselves from passing any law which they thought founded upon justice.

2778. Even to the subversion of any portion of the Hindoo law?—I think so, if it is found to operate unjustly.

2779. Mr. *Hume.*] You have stated that it would be preferable to carry on the proceedings before the judges in the English language; are the Committee to understand you to say, that the natives in the court would be better satisfied if the evidence were given orally, and translated by two interpreters, so as to enable the judge to decide upon it, than with the present mode of taking the evidence down in writing, which is handed up in great bulk?—That is my opinion.

2780. The proceedings in court used to be taken in Persian?—Yes.

2781. When was the change made?—In the time of Lord Auckland.

2782. Did a similar change take place in Bombay?—That was before I went to India.

2783. Supposing, in the change which then took place, the English language had been introduced, do you consider that by this time a great advance would have been made in that which you consider the means of facilitating justice and giving satisfaction to the natives?—I think so; it seems to me that an English race of conquerors part with an extremely good instrument for good government, when they part with their own language.

2784. Is it your opinion that that change might be effected, and should be effected, in all the courts in India?—In all the superior courts presided over by Englishmen.

2785. Wherever English judges preside?—Yes.

2786. Do not you believe that, if proper rewards were held out to the natives, in a very few years a good supply of men would be obtained to fill many of the inferior offices, which are now filled by natives uninformed, or by Europeans but little acquainted with the language?—Yes; I see steps in progress which will supply natives well fitted for the superior offices as well as the inferior.

2787. You see no difficulty in the proceedings in all the courts being in English?—No; and I think it would give that stimulus to education which is so much desired.

2788. Sir *J. W. Hogg.*] Would you think any measure judicious which confined

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fined great and important offices, either relating to the revenue or the administration of justice, to natives at the different Presidencies, excluding intelligent natives belonging to the great families throughout the interior of India?—I would endeavour to get those great families to send their sons into the service as much as possible.

2789. Those which you allude to as likely to be qualified at the present time, are the members of large families connected with the Presidencies?—Not at Bombay, certainly; Poonah, which is the centre of the Mahratta territory, where the noblemen chiefly congregate, is a great focus for education also.

2790. A great number of the natives, who speak English best at the Presidency of Bombay, are Parsees, are not they?—Parsees and Hindoos in about equal numbers; the Hindoos, I think, are even more eminent in scholastic attainments than the Parsees.

2791. Is that so as regards the facility with which they acquire the English language, or the accuracy with which they speak it?—The Hindoos are the best scholars undoubtedly.

2792. You stated generally that the Legislative Council of India had the power to repeal Acts of the Imperial Legislature?—Yes, I think so.

2793. They cannot repeal any part of the Act which constitutes that Council?—No.

2794. Nor any Act passed subsequently to the Act which constitutes that Council?—I think not.

2795. Nor can they pass any Act which in any manner interferes with the prerogative of the Crown?—No.

2796. Are not those the only restraints, and restraints well understood and plainly defined, in the Act?—The clause is very large indeed giving them very great powers; it is a question under that clause whether, for instance, they could abolish the Supreme Court or not. I think they could not; still an Act has been passed which does tend in some degree to abolish it.

2797. Has any difference of opinion, or any doubt arisen, relative to the power of the Legislative Council except on this one point, whether the proposed measure did or not interfere with the prerogative of the Crown?—I suppose it would be under that portion of the clause that the question would arise.

2798. You never knew any doubt or difficulty arise, did you, except connected with that restriction?—There was a very important question which came home to the Privy Council, whether the Legislative Council had the power to legislate for offences committed on the high seas. A case of arson took place on the high seas, and an individual in Bombay was connected with it; the question arose, whether it was competent to the Legislative Council to pass the Act under which he was tried. I was the judge on the occasion, and held that the Legislative Council had the power to pass such an Act. An appeal was made to the Privy Council, the criminal being a very rich man; the question was there raised, but it was held that the Privy Council had not the power to entertain the appeal; the point, therefore, was not decided.

2799. Mr. *Mangles.*] How long ago was that?—Five or six years ago; I have myself raised the point in a minute with respect to the jurisdiction of the Legislative Council to interfere with the Supreme Court; because it appeared to me that, the Supreme Court being established by Parliament, and playing an important part in the constitution of India, it was an interference with the constitution as established by Parliament to take away in any measure its jurisdiction.

2800. Sir *J. W. Hogg.*] You spoke of a recent Act constituting courts of summary jurisdiction at the different Presidencies; is not that one Act which applies to all the Presidencies, constituting a court with summary power in each of them?—It is an Act, not establishing a court at each of the Presidencies, but enabling the local governments of the Presidencies to establish them if they choose, giving them a discretion.

2801. It was under that Act that the courts now established at Calcutta, Madras, and Bombay, were established?—Yes.

2802. Mr. *Hume.*] Did not you say that you objected to the qualifications of the judges so named, and that you thought justice was not so well administered by them as by the senior officers of the judicial department?—I did not presume

sume to criticise the qualifications of those judges; what I said was, that you could not expect the duties to be so well performed by judges who were merely taken from the local bar, at a small salary, as by judges to be appointed from England at a much higher salary. Sir *E. Perry.* — 11 April 1853.

2803. Sir *T. H. Maddock.*] Are you aware whether there is any necessity to amend the law relating to the powers of the Legislative Council in India to legislate upon matters on the high seas?—I should think they ought to have such powers; for instance, the high seas extend beyond half a mile from the coast; the coolie trade from Bengal to the Mauritius, and a number of matters of that kind, come clearly within the cognisance of the Supreme Government; they are matters of far too small importance to take up the time of Parliament, and therefore I should conceive that the Legislative Council ought to have authority to legislate on such a subject.

2804. On what footing would you put the power of the Legislature of India with respect to offences and other matters on the high seas?—I would give them the same power that every nation has on such subjects; the high seas are a common ground.

2805. The question rather applies to the limitation of that power which you would introduce?—I would express it largely; I would carry out the view, that I think it is desirable they should have the power to legislate as to matters occurring on the high seas; I would express in terms that they should have such a power.

2806. That they should have dominion over the Bay of Bengal, for instance? —I would not limit it in that way; a question might arise at Aden; you cannot define where it may be.

2807. Mr. *Hume.*] Do you limit your opinion to what might be called in this country the coasting trade, or do you apply it to all parts east of the Cape of Good Hope?—I apply it generally; you have Hindoo subjects going to all parts east of the Cape of Good Hope, and you want to have jurisdiction over them wherever they go.

Sir *Edward Gambier*, called in; and Examined.

2808. *Chairman.*] WILL you state to the Committee what situation you held at Madras, and during what period?—I sat upon the Bench of the Supreme Court at Madras from the latter part of the year 1836 to the spring of 1850; during eight of those years I was Chief Justice. Sir *E. Gambier.*

2809. Have you any observations to make to the Committee as to the working of the Supreme Court, or is there any change which you would recommend?—I would recommend very considerable changes indeed; a change in the mode of proceeding, and the mode of pleading from beginning to end.

2810. Is the mode of procedure and pleading at Madras the same as at the other Presidencies?—Precisely, except that I believe some alteration has lately been made at Calcutta; I rather think it was made a short time before I left India; I did not hear, however, whether it was carried into effect; it was an alteration of the mode of pleading in cases on the common law side of the court.

2811. What changes would you recommend?—I would recommend the abolition of the distinction between causes civil, equitable, and ecclesiastical. I would recommend that our technical mode of pleading should be also abolished, and that for it should be substituted in every case, legal, equitable and ecclesiastical, a simple and rational mode of pleading, such as in effect has been established by Sir Lawrence Peel at Calcutta, on the common law side of the court.

2812. Will you state to the Committee what the system at Calcutta is?—I am not perfectly acquainted with the system; but the principle of it I understand to be this, that the party should state his case in simple language, in succinct terms, and not in the technical language of our English pleading.

2813. Were those improvements by Sir Lawrence Peel introduced by the orders of the Supreme Court, or was it necessary to have any legislative interference?—They were introduced under the authority of a legislative Act, which empowered the judges, with the consent of the Supreme Government, to alter the mode of pleading.

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2814. The same course might be adopted in the Supreme Court at Madras?—The same course might be adopted in the Supreme Court at Madras, but I would carry it further, and extend it to every part of the court, not confining it to the common law side.

2815. Have you any other observation with respect to the Supreme Court to make to the Committee?—I think every suggestion which I might make would probably have reference to what I think a most desirable measure, the union of the two courts at the Presidency, the Supreme Court and the Sudder Adawlut Court.

2816. Would you be in favour of the union of the two courts under judges appointed by the Crown?—I think that a portion of the court might be appointed by the Crown, and that the remaining portion of the court might be selected and appointed in the same manner that the Sudder judges are now selected and appointed; the effect of that would be, not to increase the patronage of the Crown, but to some extent to diminish it.

2817. Evidence should still be given orally?—Yes.

2818. Would you introduce a jury?—I have great doubts about the introduction of juries. We have never made it compulsory upon the natives to serve upon juries at Madras, and I think the full benefit of the jury system would not be felt unless natives served upon it.

2819. Have you had any opportunities of judging as to the efficiency of the Company's courts of justice?—I have no particular knowledge or experience upon the subject. I only know what is the general feeling with respect to them. I have had occasion only once to consider the constitution of those courts.

2820. Are you prepared to recommend any change in the system adopted in the Company's courts?—I think that their system is certainly a complicated one, and it is one that might be easily simplified. I think the best mode of simplifying it would be by the judges of the Supreme Court and the Sudder Court in concert framing general rules for the procedure of all the inferior courts in the Presidency.

2821. Are the Committee to understand that you would not introduce a system of jury in the Supreme or Sudder Court, or that you would not extend it to the inferior courts?—I am not prepared to say, that if parties wished to have their causes tried by juries it might not be desirable that they should have that opportunity; and I think it would be very practicable in the Supreme Court at Madras, because there are a sufficient number of native jurymen, who have a knowledge of the language, and are willing to serve.

2822. Would you introduce oral evidence into the inferior courts as well as into the Supreme Courts?—Most certainly.

2823. Would you recommend that the proceedings should be in English or in the native language?—I cannot say with respect to all the courts that I am prepared to recommend that they should be in English, but I think, with regard to the courts presided over by European judges in the Presidency of Madras, it would be better that the proceedings should be in English. The situation of the Madras Presidency in that respect is very much like that described to be the situation of the Presidency of Bombay. It is not like many parts of Bengal and the North-Western Provinces, where only one language prevails. In the Madras Presidency, a court may have to hear evidence in two or three, or even four different languages, and I doubt very much if any European judge, even the most experienced judge in the Company's service, has ever been able to attain that perfect knowledge of all those languages which would enable him to administer justice without the aid of interpreters.

2824. Would you introduce a new code of laws into India?—I think that all the different systems of law should, as far as possible, be reduced into the form of codes, and I think that might be very easily effected. I think that the Hindoo and Mahomedan laws of succession, inheritance, marriage, legitimacy and adoption, those laws which are peculiar to them, should be drawn up in the form of a code, and that any special customs which prevail in particular places, or among particular classes of persons, should also be put into the same form, so that, as far as possible, all the law which is to be administered should at once be accessible to those who have to administer it; and I think also it is very necessary, in the present state of society in India, that the laws which are applicable to persons not being Hindoos, and not being Mahomedans, should, as far as possible, be ascertained; that is, that it should be laid down something

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in the form of a code how far and to what extent the English law should be applicable to those cases, and in what respects the English law should be modified. Sir *E. Gambier*

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2825. What is your opinion as to the fitness of the natives for judicial situations in India?—I have not had much personal knowledge upon the subject; but I have a great opinion of the powers of the natives, and particularly of the Hindoos. I think they are exceedingly apt and exceedingly quick, and I should have no fear at all of their being, under proper training, well qualified to fill any judicial situation whatever.

2826. Is there any such training now in existence which would fit the natives for those judicial appointments?—There is not any sufficient training, and it seems to me to be one of the great defects in the system of the country. A system of legal training was recommended many years ago by the Law Commission, but no steps have been taken towards establishing what I think should be founded, schools of law for each of the Presidencies.

2827. Which Law Commission do you refer to?—I think a suggestion was made to the Government at the time when Mr. Amos was fourth Member of the Council.

2828. With regard to the Legislative Council, have you any observations to make to the Committee, or any suggestions, as to its formation or constitution?—I have considered the subject of the Legislative Council, and I certainly am of opinion that the Council which should legislate for India ought to be differently formed and differently constituted from that which now exists. In my opinion the Supreme Council ought to be confined to its most important functions of advising the Governor-general, and that on no occasion, when the exigencies of the public service required the absence of the Governor-general from Calcutta, should he proceed to any part of the territories of India unless accompanied by the Members of his Council; that is, by all who could possibly accompany him. I would make an exception, of course, of the Deputy-governor of Bengal, and of the fourth ordinary Member of Council, who is not a Member of the Council for executive purposes. But it seems to me that the object of such a Council is entirely defeated, if in the most important situations in which the Governor-general is placed he is permitted to act without them, and to have in his own person all the powers of the Governor and Council. Then, if that were so, the Council clearly could not exercise its legislative functions when in that ambulatory state. Indeed it would be very inconvenient that it should do so, because it is not composed of persons who have an acquaintance with the wants and requirements of the other Presidencies, and the different parts of India.

2829. Mr. *Hume*.] Is it your opinion that the fourth ordinary Member of Council should on all occasions have the matters which are referred to the Council submitted to him, and that he should vote as well as the others?—I think as long as there is a fourth ordinary Member of Council, his presence would be useful, and he might probably materially assist the Council. Looking to the different persons I have known in that situation, I have no doubt that their presence at the Council would have been an assistance; but in my view of the constitution of a Legislative Council, that office would not exist at all; that is, combined with the present Supreme Council. In my opinion, if a Legislative Council is to hold its sittings in India, it should be composed of members of the civil service from each of the Presidencies, with a competent number of persons acquainted with military affairs, and also a sufficient number of persons of the legal profession. Such a council, however, could not be constituted in India except at very great expense. In my opinion, and it is a recommendation which I have made, it would be better that the general legislation for India should be conducted by a body of persons in this country; that that body should be composed of persons of experience in the civil and military services of each of the Presidencies; to those persons being added, some retired members of the legal profession, either those who had filled the office of fourth ordinary Member of Council, or who had sat upon the bench of some one of the Indian supreme courts, or barristers who had practised there for a certain number of years.

2830. Would you have that council so formed here, pass regulations for the government of India, or would you have Acts of Parliament for the purpose?—I would give to the body which I have mentioned at home full power to legislate

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legislate in as ample a manner, or in a more ample manner, than the Supreme Council now legislates in Calcutta.

2831. Mr. *Ellice.*] Might not there be difficulty in amending any such Acts according to exigencies which might arise in India?—I think there would be no such difficulty; the time which now elapses between the introduction of an Act, and its final promulgation, would more than allow for communicating with every part of India.

2832. Would not occasions arise for local legislation in respect to different parts of India?—If those occasions arose on their being submitted to the body at home, legislation might take place, and there would be persons in the Council I have mentioned who would be acquainted with the exigencies of the place to which that legislation would be directed.

2833. Would not exigencies arise requiring instant legislation upon some occasions?—I hardly think that they could. I know of no instance in which such legislation has taken place in India, except with regard to a departure of the Governor-general from Calcutta.

2834. Mr. *Macaulay.*] Did you never hear of any instance in which any portion of India was in insurrection, and it was necessary with very great rapidity to pass an Act for the purpose of strengthening the hands of the Government in that part of the country?—I do not remember the case; I can hardly conceive any case of that nature arising, to which the Executive Government might not direct its own powers.

2835. Supposing there were a regulation actually in force with regard to the government of a particular district, and the provisions of that regulation were rendered quite unsuitable to the circumstances by an insurrection there, would not it be necessary that there should be a legislative power to repeal or suspend the regulation?—For such a case, which I think would be a very rare one, provision might be made by giving the Governor-general power to suspend the law for a certain period under particular circumstances.

2836. Mr. *Hume.*] You would consider that as an exception to the general rule which you have laid down?—Certainly; I should consider that as an extraordinary case which might be provided for in that manner.

2837. Sir *T. H. Maddock.*] In speaking of the legislative powers of the Legislative Council, you expressed the opinion that on all occasions of the absence of the Governor-general from Calcutta, he should be accompanied by the Members of the Council?—Yes.

2838. And that he should not have the power of enacting laws excepting when aided by those Members of the Council. Are not you aware that the Governor-general now, when absent from the Council, is precluded by law from enacting laws?—I did not speak of the Governor-general's enacting laws, I spoke of his exercising the executive capacity of the Governor-general in Council in his own person alone; I am aware that, when the Governor-general is absent from Calcutta, all he has the power of doing is giving his assent to any law which has been passed in his absence.

2839. You have expressed an opinion favourable to the amalgamation of the Sudder Court with the Supreme Court; in case of such an amalgamation, would justice be there administered in the name of the Queen of England?—Certainly.

2840. Exclusively so?—Certainly.

2841. If that were the case, in whose name would you administer justice in the subordinate courts of India?—I think throughout India it should be administered in the name of the Queen.

2842. Mr. *Mangles.*] Before that amalgamated court you recommend that all evidence should be oral, that court being, as far as the Sudder Dewanny Adawlut is concerned, solely a court of appeal; would not it lead to very great expense and inconvenience if witnesses from very remote parts of the country had to be brought there to be examined?—Certainly; I only meant that to refer to its original jurisdiction.

2843. You spoke also of there being no sufficient training for native judges; did you confine that remark to the Presidency of Madras, or did you intend it to apply generally?—I intended it to apply generally; I think the want is felt throughout India.

2844. Are you aware that in Bengal and the North-western Provinces there are very strict examinations of candidates for native judgeships, and that they

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are not put upon the list of candidates till they have passed very severe examinations?—I cannot speak with reference to matters in Bengal. Sir *E. Gambier.*

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2845. Is not it the case at Madras, that a great many of the native judges are what the judges are in this country and in India; that is, raised to the bench from the native vakeels or pleaders in a very considerable proportion?—I think it is highly probable, but I do not know how the fact may be.

2846. Mr. *J. Fitzgerald.*] Would you consider it right that a knowledge of the English language should be made a test in the case of native appointments to this extent, that, in the event of there being two candidates, the preference should be given to the one who knew the English language?—I am not able to form a decided opinion how far that should be required in the courts presided over by native judges. I think that a knowledge of English would be extremely desirable in the case of a native, as I think a knowledge of the languages of the district extremely valuable to an European judge.

2847. Would not such a test as that be likely to increase the study of the English language among the natives?—Certainly it would; and it would be a test of good education.

2848. Mr. *Hume.*] Have you considered how far the natives could be advantageously employed to a greater extent in the administration of justice than they are employed at present?—I think they could be safely trusted, because I think that it is a characteristic of the natives, of the Hindoos especially, to fill with great fidelity any offices of trust and confidence. I think that their aptness, under proper training, would qualify them in time for any situations of a judicial nature.

2849. You have heard the opinions stated with respect to supplying the bar and the bench in India from the English bar; what is your opinion upon that subject?—My opinion is, that it would be better, if judges were wanted to preside in the zillah courts, or to fill the situations of subordinate judges in the Madras Presidency, that the barristers practising in the Supreme Court should be eligible for that purpose, provided they possess the same knowledge of the language or languages of the district which would be required from the civil servants.

2850. Supposing the language in which the proceedings in the courts are conducted were changed to the English language instead of the Persian, or the vernacular language, would that make any difference in the opinion you have now expressed?—No; I think not.

2851. Would you fix any number of years for them to practice at the local bar, before they were eligible for those situations?—I think some years standing at the bar should be required; perhaps five years standing at the bar, and that they should be obliged to pass an examination in languages; and upon that, I think, they should be admitted into the civil service upon the footing of having the same rank as civil servants who are about the same age as themselves, which I think would give them from five to ten years' standing in the service.

2852. Mr. *Mangles.*] Would that practice at the bar give a man that knowledge of the habits and customs and feelings of the people in matters of land tenure, and the like, which it is so necessary that he should possess, in order to discharge the duties of a judge in the Mofussil?—I think, perhaps, it would not have that effect so perfectly as might be desired; but I think it is extremely desirable to enlarge the field of choice, and for that reason only I make the suggestion. I think a great improvement might be effected by the early training of those who are in the civil service. I think they should be encouraged to devote more time to the study of jurisprudence, and the fundamental principles of law, before leaving this country, and that they should have a certificate of certain attainments in that branch of their studies; I think also there should be a school of law at the Presidency, where they should further pursue those studies, and that they should attend the Supreme Court for a certain number of years before they took any appointment in the Mofussil.

2853. Mr. *Hardinge.*] How long, in your opinion, would it take a barrister sent out from England to become possessed of sufficient knowledge to enable him to sit on the judicial bench?—I think three years would be sufficient.

2854. Mr. *Mangles.*] You know that Sir Thomas Monro, a great Madras authority, held that no man was qualified to be a judge who had not been at collector?—Certainly, a knowledge of the habits of the people is perhaps better acquired in that branch of the service than any other. It is quite consistent with

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with what I have recommended; and after this foundation has been laid, by the parties being well grounded in the principles of law for a certain number of years, the young men might serve in the revenue branch, where they undoubtedly acquire a great deal of knowledge which would be useful to them afterwards on the bench.

2855. You do not concur in the strong opinion which has been expressed, that they are unfit to be judges because they have been for some time in the Revenue Department?—I think in many respects they must acquire knowledge there which is eminently useful to them as judges; but what I think they are wanting in is a knowledge of the principles of law and jurisprudence.

2856. Mr. *Elliot.*] In proposing to select the judges from among the practising barristers in the Supreme Court, do you contemplate the abolition of the civil service, or merely adding those persons to the civil service?—Merely adding them to the civil service.

2857. As that would bring a considerable body of persons into the upper ranks of the civil service who had not passed through the lower ranks, would not it, in fact, to a great degree, supersede the juniors of the civil service, and render that service no longer as desirable as it is at present?—The measure certainly must have that effect; but I think it is so important that judges properly qualified should sit in the different courts throughout the country, that almost every consideration should be sacrificed to that.

2858. Do you think the civil service could continue to exist under an arrangement of the kind you have proposed?—I think so. I would only make barristers eligible for that purpose in case men were not found in the civil service sufficiently qualified. It is in order to increase the field of choice, not to confine the choice to barristers, by any means.

2859. With such a contingency in view, do you think barristers would go to India to practice in the Supreme Court, in the hope of succeeding to vacancies occasioned by the incompetency of the civil servants?—I think it would have the effect of inducing young men to practise at the bar of the Supreme Court.

2860. Mr. *Hardinge.*] How would a barrister sent out from England acquire the knowledge of the land tenures of India which it is necessary for him to possess in order to decide cases of that nature?—I think a barrister appointed direct from this country would be under great disadvantages.

2861. How would you propose that he should receive that kind of training in the Revenue Department which is necessary?—I do not propose that barristers should be appointed direct from this country at all, but only that a selection might be made, and that the power of selecting should be given to the local Government of those who are practising in the court.

2862. Mr. *J. Fitzgerald.*] Would a barrister practising in the Supreme Court be likely to acquire a sufficient knowledge of the law of land tenures in India?—I see no reason why he should not, except that he may not acquire the practical knowledge which is acquired in the revenue branch.

2863. Do you consider that a knowledge of the principles of the law of evidence, and the mode of conducting judicial inquiry, is still more important than the knowledge to be obtained in the collector's office?—I do.

2864. Mr. *Lowe.*] You said just now that Sir Lawrence Peel had introduced a new system of pleading at Calcutta; are not you aware that that was subsequently negatived?—I am not aware of it; I only saw the rules when they were first promulgated, which was a short time before I left India.

2865. Mr. *Ellice.*] You do not know by what authority, whether by the Board of Control, or the Court of Directors in this country, that improvement in the mode of procedure in India was arrested?—I do not.

2866. *Chairman.*] Have you any further observations to offer to the Committee upon the present judicial system in India?—I have mentioned that I think there should be a school of law at each Presidency; I think there should be law lecturers and examiners appointed, and that no servant of the Government should for the first time be appointed to a judicial situation without having passed an examination, and received a certificate from those examiners; and I think that it would be also extremely proper, that all persons applying to be admitted as advocates, attorneys, or vakeels, either in the Supreme Court or any other court throughout the country, should be examined, and should receive a certificate of competency from one of those examiners.

Jovis, 14° *die Aprilis*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir Charles Wood.
Mr. Disraeli.	Sir R. H. Inglis.
Viscount Jocelyn.	Mr. Hardinge.
Mr. Mangles.	Sir J. W. Hogg.
Mr. Hume.	Mr. Vernon Smith.
Mr. R. Hildyard.	Mr. Spooner.
Mr. Macaulay.	Lord Stanley.
Mr. R. H. Clive.	Mr. E. Ellice.
Sir T. H. Maddock.	Mr. J. Elliot.
Mr. Lowe.	

THOMAS BARING, Esq., in the Chair.

Charles Hay Cameron, Esq., called in; and Examined.

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2867. *Chairman.*] YOU presented a petition to the House of Commons, which has been referred to this Committee, the prayer of which is that the propositions and discussions of the Law Commission may be submitted to the consideration of competent judges, who may decide whether the recommendations of the said Commission are or are not fit to be adopted?—I did so.

2868. You were a member of the Indian Law Commission, and afterwards president of it?—I was.

2869. And fourth member of the Council?—I was.

2870. You have stated in your petition that no decision has been pronounced, with one exception, upon the various propositions contained in the reports of the Law Commission; to what do you attribute that?—I attribute that principally to the circumstance that the Law Commission was a body appointed by Parliament to take into consideration the whole of the vast subject of Indian law and judicature; to examine fully into it, and to make reports upon it, with recommendations of such remedial measures as they might think necessary; and that the Council of India is a body too much occupied with current business to take into consideration such elaborate reports as it was the duty of the Law Commission to make according to the terms of the statute. With regard to the Home authorities, I would rather refer to Mr. Hill's evidence upon that subject, which I have quoted in the petition which I had the honour to present to The House; that seems to me to give an explanation of the sort of lock which there has been in carrying into effect the intentions of Parliament by the Law Commission, and the bodies which were appointed to revise its proceedings.

2871. You concur in the opinion which Mr. Hill expressed, that the Council of India has too much pressing business before it to occupy itself sufficiently with the questions which would by the Act have been referred to the Law Commission?—I think so.

2872. Did you, while in India, suggest any remedy for that defect in the organisation of the Indian Legislature?—I did. I suggested that the Law Commission should be made a part of the Legislative Council, their salaries and rank, and everything of that sort, remaining exactly as before; the separate duties of the Council of India remaining exactly the same as before, and the separate duties of the Law Commission remaining as they were before; that is to say, the preparation of reports, and the investigations which they were to carry on under the statute. But oral discussions upon the propositions of the Law Commission would then have been carried on in the Council, and all the members of the Council would have had an opportunity of hearing those discussions

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discussions and taking a part in them, which would have been analogous to the conferences upon the Code Civile, in which Napoleon himself took so important a part. In that way it would have been possible that the Council should gradually, as those recommendations were being matured, have made themselves masters of the subject, and been able to pronounce a satisfactory opinion upon them. The minute in which I made that recommendation I now beg to refer to.

2873. Will you read that minute?—The date of it is the 30th of March 1843: "My opinions on the subject of the Law Commission differ very materially from those of Mr. Amos. For the convenience of those who may have to consider these minutes, I will follow the order adopted by him, though I do not intend to notice all the topics which he has discussed. His first remark is, that 'Numerous and protracted avocations for business unconnected with the Commission have withdrawn, and are likely to withdraw, the attention of the Commissioners from its proper duties.' This is true, but if the practice is inexpedient (and unquestionably it may be carried too far) the Government can at any moment correct it, and abstain from giving to the individual members of the Law Commission occupation not connected, or but slightly connected, with the business for which the Commission was instituted." I may remark, that a great many such occupations had been given to separate Commissioners. "Mr. Amos says, 'During the six months immediately preceding Sir Edward Ryan's departure from India, I believe that more work was done by several Law Commissioners in examining these schoolboys (the students of the Hindoo College and other Government colleges) than in the business of the Commission.' I cannot say that my belief is in accordance with Mr. Amos's; but however the fact may be, the superintendence of the education of the natives is a matter of such importance, and (from the peculiarities of the people) of so great difficulty, and has, moreover, such a connexion with the judicial system, that in my opinion it must always be desirable that some members of the Commission (so long as any such body exists) should be members of the Council of Education. From 'these schoolboys,' it must be remembered, the future native judges will probably be selected, and it is difficult to say how great an influence for good or for evil their education may have upon the happiness of the people. 'Secondly,' says Mr. Amos, 'I think that the provision for laying the reports of the Commission before Parliament is calculated to work prejudicially. It has a tendency to induce Commissioners to frame their reports rather with a view to English readers (though, in point of fact, these may be a very small number), than to assist the Indian Government. In order to assist that Government, it would seem a desirable course to frame succinct schemes of such general improvements as the Commission felt disposed to recommend, and, in the first instance, to ascertain how far the Indian Government was willing to adopt them, and afterwards to complete the details according to the modifications of principle which that Government might make; whereas the notion that the Commissioners are writing for an English public tends to make them produce elaborate schemes, which they may even have ground for supposing are contrary to the opinions and views of the Indian Government, but the composing of which consumes a great deal of their time. The consequence will often be, that the reports may have very little effect in edifying or influencing the authorities in England, and they will be laid aside indefinitely by the Government of India.' Now, I conceive it to have been clearly the intention of the Legislature that the Commission should 'produce elaborate schemes,' and it seems to me that the intention was a wise one. It is very probable that the provision for laying the reports before the two Houses of Parliament has contributed to the fulfilment of this intention, and, in my judgment, it has thus done good. I think that the legislation of India and the judicial system is in a state which requires to be remodelled by means of elaborate schemes, and this is the justification of the expensive apparatus of a Law Commission. It is only necessary to read the Charter Act to see that in framing such schemes as those to which Mr. Amos objects, the Commissioners have not been led astray by the notion that they are writing for an English public, but have been simply obeying the express commands of the Legislature. It is, therefore, against those express commands (rather than against a provision which may perhaps have a tendency to produce obedience to them) that Mr. Amos should have directed his censure. It is, however, my opinion,

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opinion, that the two organs for legislation in India which were constituted by the Charter Act (the Council of India and the Law Commission) are not adapted to each other, and that so long as the relation between them continues to be what it now is, the practical benefits expected from the Law Commission can hardly be realised. The Charter Act directs the Law Commissioners fully to inquire into the 'jurisdiction, powers, and rules of the existing courts of justice and police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operation of all laws, whether civil or criminal, written or customary, prevailing and in force in any of the said territories, and whereto any inhabitants of the said territories, whether Europeans or others, are now subject.' The Act further directs them 'from time to time to make reports in which they shall fully set forth the result of their said inquiries, and shall from time to time suggest such alterations as may, in their opinion, be beneficially made in the said courts of justice and public establishments, forms of judicial procedure, and laws, due regard being had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races, and in different parts of the said territories.' Such are the elaborate schemes which the Law Commissioners are directed to produce, and as they have no regular executive duties permanently to distract their attention, they have been able to produce some such schemes, notwithstanding the interruptions which have been alluded to by Mr. Amos. But from the Law Commission these schemes go up to the Council, that is, to a body who have duties of another kind, which are perhaps sufficient to occupy their whole time, but are, at all events, sufficient to occupy so much of it as to leave a remainder quite inadequate to the business of criticising and deciding upon the adoption or rejection of the schemes prepared by the Law Commission. The penal code, and the report upon a *lex loci*, afford examples of this defect in the present constitution of British India. The penal code was sent up in October 1837, the report upon a *lex loci* in October 1840. The Council has never come to any decision upon either proposition, nor do I believe that it has been possible for that body to come to a decision based upon adequate consideration of the subjects; but, besides that, it has not come to a decision, the Council has had recourse to the very natural expedient of collecting opinions from a great number of functionaries. If these opinions upon the reports of the Law Commissioners are to be read and digested with the necessary attention, as well as the reports themselves, then I think it is clear that a decision must now be considered a more remote object than it would have been when the reports were presented, if the Council had then felt themselves in a condition to take them into consideration and pronounce upon them without further extraneous assistance. I apprehend, then, that any code of procedure, and any code or codes of substantive law which the Law Commission may propose, will never get beyond the Council, so long as the present arrangements remain unaltered. The alteration which appears to me to be required for the purpose of obviating this impediment to the legislation of India, is to make the Legislative Council consist of the present Council and the Law Commission united. The preparation of elaborate schemes, and of disquisitions explaining and justifying them, would still be the peculiar business of the Commissioners; but the other members of the new Legislative Council would be present at the discussions which take place upon the matter which each Commissioner has prepared in his own closet. These discussions would correspond to the conferences on the Code Napoleon, and the members of the new Council who are not members of the Law Commission would, by taking part in them, fit themselves, during the progres of the work, for pronouncing a judgment upon it when complete. I can appeal to a partial experience on this point. During the preparation of the penal code (at least during the early stages of it), Sir Edward Ryan and Sir Benjamin Malkin used to meet Mr. Macaulay and myself once a week, when we used to state to them what were the questions then under consideration in the Law Commission, and debate those questions with them. Sir B. Malkin is no more, but Sir E. Ryan will be able to say whether in this way sufficient insight into the principles and details of a code may be acquired, while it is in progress, to pronounce a sound judgment upon it when finished; and if the Home authorities should think this scheme of mine for remodelling the Legislative Council worthy of attention, I would requent that Sir E. Ryan should be consulted

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sulted upon it. All the duties now performed by the Council of India, except the business of legislation, would, if this scheme were adopted, be performed as they now are, that is to say, by such members of the new Council of India as are not Law Commissioners. If this scheme (or some other having a similar effect) is not adopted, then I think the practical utility of the Law Commission will not be commensurate to the expense of it, and, consequently, I should be compelled to recommend the abolition of it. Such abolition I should most deeply lament, for it appears to me that British India (at least such parts of it as have been long in the enjoyment of tranquillity under our rule) is ripe for a good system of law and judicature, and would derive immense benefit from them. One of the things which the Asiatic character most wants in order to bring it up to the European standard, is the feeling that pre-established principles, and not arbitrary discretion, ought to govern the decision of the questions which arise between private persons, and are by them referred to the public authorities. The Supreme Courts in India afford examples of a near approach to decision according to pre-established principles, but unfortunately the principles which govern their decisions are nowhere to be found written in a systematic form, and thus made as accessible to the public as possible; and still more unfortunately their decisions (in consequence of the defects of their procedure) turn very frequently upon points foreign to the real merits of the controversy. Systems of substantive law made in the highest degree capable of being known beforehand, by being written in a series of well-arranged propositions, and made applicable to the affairs of men through a rational system of procedure, are objects which, if attainable at all, are, as I believe, only attainable by means of a Law Commission incorporated with the Indian Legislature. I have only now to make a remark upon Mr. Amos's scheme for attaching the Commission to the Legislative Department, which it will be seen is really a scheme for doing something very different. 'I should apprehend,' he says, 'that it would augment the practical utility of the Commission, and at the same time be a considerable financial saving, if the following arrangements were made; arrangements, the expediency of which, it may be observed, may be acquiesced in, even by those who at an earlier period, before the Commissioners had expressed collective opinions upon many of the leading branches of Indian jurisprudence, might have thought it desirable to retain the full strength of the Commission according to its original constitution. I would attach the Commission to the Legislative Department, and dispense with the Bengal civil servant, the English lawyer, and the secretary. The secretary in the legislative Department will supply all that is peculiar to the information or duties to be expected from the Bengal civil servant and secretary, and the legislative member of Council will supersede the necessity of appointing an English lawyer to the Commission. The Madras and Bombay members will be found very useful, not only in the Legislative Department, but for the purpose of reference and consultation in the other departments, especially whilst there is no Madras or Bombay civilian in Council. I am persuaded that by this arrangement the Commission will be found to render much greater assistance to the Indian Government than it has hitherto done, and its proceedings will be very much accelerated.' To treat this proposition (as Mr. Amos does) as a reform of the Law Commission seems to me pure fallacy; it is destroying the Law Commission, and using part of its materials for another purpose. That Mr. Elliott and Mr. Borrodaile would render excellent service if attached to the Secretariat in the Legislative Department, is what I do not in the least doubt. But to call them the Law Commission, rendering greater assistance to the Indian Government than it has hitherto done, or the Law Commission, with its proceedings very much accelerated, seems to me nothing but an abuse of words."

2874. When did you suggest that change?—The minute is dated the 30th of March 1843.

2875. Do you consider that the plan which you then suggested is the proper remedy to be now applied?—No, I think not now, because the Law Commission having gone through nearly the whole of the Indian judicature, and sketched out a complete system for the whole and elaborated a very great portion of that sketch, I think enough matter has now been prepared to enable the subject to be completely settled in this country. What I suggest in the prayer of my petition is what I should now substitute for the scheme recommended in this minute of 1843.

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2876. What is the plan which you would suggest?—The plan which I would suggest would be a Commission consisting, in the first place, of distinguished English jurists, men who are not only English lawyers, but who have a large acquaintance with the general principles of jurisprudence, such men, if possible, as have considered a great variety of forms of judicature, such, for instance, as Sir James Stephen, who, at the Colonial Office, has had to consider a greater variety of different forms of judicature than any other man in the world. That is the sort of person I should recommend in the first place. In the next place, I should recommend that the Commission should consist of retired Indian judges, who are not only, generally speaking, eminent lawyers, but also men thoroughly acquainted with one very material portion of the system which is to be reformed.

2877. You mean judges of the Supreme Court?—Yes; not that I should feel the least objection to the admission of judges of the Sudder Adawlut, if there are any in England; and, lastly, I would recommend that there should be some members of the Law Commission, such men, for example, as Mr. Millett and Mr. Macleod, who are most eminent civil servants of the East India Company, one from Bengal and the other from Madras, thoroughly conversant with the whole of the Indian portion of the subject, as the judges of the Supreme Court are with the English portion of Indian judicature. In that way, I think, a Commission might be constituted which would be completely competent to pronounce a decision upon all the recommendations of the Law Commission, and finally to settle the whole law and judicature of India, leaving nothing for the Supreme Council afterwards but the ordinary current business of legislation.

2878. Of how many members do you think that Commission here should be composed?—I suppose probably ten members would be quite sufficient.

2879. Would they all agree, do you think?—I do not suppose they would all absolutely agree; but I have no doubt they would come to an agreement. That was what we found in the Law Commission; we did not all agree in the beginning, but we all came to an agreement.

2880. How long do you suppose would be the duration of the discussions and studies of that Commission before framing the codes?—I should think the whole work might be done in two years.

2881. It would then be submitted to the Council in India?—No doubt if the present constitution of the Indian Legislature remains as it is, it should be submitted to the Indian Legislature, and they should exercise a discretion upon it; because it seems to me to be inconsistent with the constitution of the Indian Legislature as it exists by Act of Parliament, to send orders to it to pass a law or not to pass a law. Though that is strongly my opinion, I should say it was not the opinion of the Attorney and Solicitor General, and therefore probably I may be wrong; if I am wrong, there can be no objection to sending out orders to the Legislative Council of India to pass such Acts as the Commission may prepare. My own opinion, however, is, that if the statute remains unchanged the Council of India ought to be consulted, and should exercise a discretion.

2882. Do you consider that it would be desirable, if at present the Indian Legislature has a veto, to alter the enactments of the statute so that it should be incumbent upon the Indian Legislature to adopt the codes recommended by the Commission in this country?—Yes, I think so. I would not say that it should be incumbent upon the Indian Legislature to adopt them; the legislation should take place here, and therefore the Indian Legislature would be bound by it; a great deal might be done by statute.

2883. You would leave no power to the Indian Government either to alter, or suspend, or delay the application of the codes enacted here?—No, I rather think not, if the statute is to be altered; if it remains unaltered, then I think it is involved in it that the Indian Legislature must exercise a discretion upon every Act which it is called on to pass or to reject.

2884. Would you recommend that the decision of the Commission here should have force in India without the assent or approbation of any other body, or would it then be submitted to Parliament?—It should be submitted to the Government here, of course, and I should think also to Parliament; a great deal of it must be submitted to Parliament, because it would require a statute.

2885. Your idea is, that after the code is prepared by the Commission it should be submitted for approval to the Government, and subsequently sanctioned by Parliament here?—Yes.

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2886. That proceeding you think would be terminated in two years?—I should think so, but it is not an easy point to pronounce a decisive opinion on, as I know from my own experience of the Law Commission.

2887. Will you state, what in your opinion are the principal defects in the present system of judicature of India, and the remedies which you think desirable?—The defects may be generally described as consisting of uncertainty and needless diversity. There is for example a totally different system existing in the three Presidency towns and in the Mofussil; that is to say, all over the country beyond the Presidency towns. That I believe is a state of law which is unexampled; I do not know that any other country has such a state of things existing in it as that, or ever had, except Ceylon, which was a copy of the present Indian judicature, where the evil has been remedied in the way I have mentioned, at my own suggestion. Before I went to India, I was a Commissioner for the same purpose in Ceylon, and I suggested that the system should be altered, and the Supreme Court made an appellate and superintending court over the whole judicature of the country. It has been working now for the last 20 years very successfully. The same sort of thing I should recommend in India, only there being there a high Company's court called the Sudder Adawlut, I should recommend that the judges of the Supreme Court should be united with the judges of the Sudder Court, forming one great court of appeal and universal superintendence over each Presidency. I should recommend also, that the distinction between Queen's courts and Company's courts should be entirely abolished. I think every court in India should be a court of the Queen, because the Queen is the fountain of honour and justice throughout the whole of the British dominions. I think also every court should be a court of the Company, supposing the present constitution to continue, because the Company is the agent to whom the Queen and Parliament have delegated the sovereignty of India. I would therefore make no distinction between the courts in that respect; the distinctions which exist between them now are productive of considerable mischief.

2888. Sir *C. Wood.*] The High Court of Appeal which you mentioned, it would be necessary to constitute by Act of Parliament in this country, would not it?—It would not be absolutely necessary, because the Legislature of India has power, with the previous sanction of the Home authorities, according to the statute as it now exists, to abolish the Queen's courts and to set up other courts. I know that some of the judges of the Supreme Courts think that, notwithstanding the power given in the statute, the Legislature of India cannot abolish the Queen's courts, because they consider them to be part of the original constitution of the Indian Government, which is supposed to be saved from the operations of the Council of India; but that is not my opinion. I think it is quite clear from the 46th section of the statute that they may; that enacts that the Council of India shall not abolish the Supreme Court, without previous sanction, which implies that with it, they may do so.

2889. *Chairman.*] The proceedings in this new court would be in English?—Yes; the evidence must be in the language of the witnesses, with an interpretation, but the records would be in English.

2890. Should you propose to introduce juries into that court?—I should not introduce juries according to the English system. The Committee is aware that juries are now used in the Supreme Court in criminal cases. Perhaps Englishmen would not like the abolition of that system, but I should be disposed to abolish it as it now exists, and introduce juries whose verdicts might be overruled by the judge.

2891. Your idea would be to introduce juries, not requiring unanimity from them?—I would not require unanimity, and I should allow the judge to set aside the verdict at once, upon his own authority.

2892. Allowing, as is the case in England, to the judge the power to charge the jury?—Yes, calling upon him to charge the jury, to sum up the evidence to them, explain the law, and take their opinions.

2893. Do you believe a native jury would be much guided by the opinion of the judge?—I think they would be very much. I think it would be desirable that they should be guided by the opinion of the judge. I think the opinion of the judge is, generally speaking, the better opinion of the two, which is the reason why I would give a power to the judge to set aside the verdict.

2894. It has been stated in evidence before this Committee, that the natives would

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would be disposed to give a verdict according to the intimation of the opinion of the judge, and not to the exercise of their own discrimination?—I think there is danger of that, but I think that as they acquired the habit of sitting as jurymen, and hearing cases discussed before them, the judge taking care to treat them with great respect, and intimating that it was their real opinion he wanted, and not an echo of his own, that mischief would be cured.

2895. Mr. *J. Elliot.*] That objection would not apply so much to juries in Calcutta, as to juries in the Mofussil, would it?—it would not, of course, apply so much to a jury whose verdict is binding.

2896. In Calcutta you would have more chance of obtaining a real opinion from the natives than you would from natives selected in the Mofussil, would not you?—Undoubtedly, and that same spirit which would give you a better chance in Calcutta now, is gradually spreading from Calcutta into the Mofussil by the force of our English education.

2897. *Chairman.*] Would you leave the minor courts as they are, or what change would you recommend to be introduced into them?—The Law Commission recommended the establishment of a subordinate civil court at Calcutta; that subordinate civil court we intended as a model for all the subordinate judicatures of the country; the description of it is to be found in our own reports. It was a court which was to administer the English law, being in the Presidency, but the Mahomedan and the Hindoo law also, as the Supreme Court now does; it was to administer both law and equity; it was to do complete justice in every case which came before it; not to turn a suit over from one court to another, but to do complete justice in every case coming before it. This court we intended as a model for all the courts of the country, and the system of pleading which we should have introduced into that court we intended to be the system of pleading to be adopted throughout the country; that is to say, oral pleading, the parties themselves, where there is no particular objection, appearing before the judge and stating their case, from which the judge would draw up the pleadings and frame the issues. Where there is some particular objection, such as where there is a native of high rank who objects to appear in a court of justice, we should require him to send an agent authorised to state his case, by whose statements he would consent to be bound.

2898. Would you admit native judges to preside in those courts?—Yes; I would gradually admit native judges to sit in all courts; in the highest courts as well as in the others. I do not know that there is any native now fit to sit in that high court, the College of Justice, as the Law Commission called it by way of distinction, but I have no doubt there will be ultimately.

2899. Is it your idea that all the judges of the Supreme Court should be appointed by the Crown?—Yes, I think they should be appointed by the Crown. I do not see any objection to the judges of both the Supreme Court and the Sudder Court being appointed as they are now. As I have said, I would have every court a court of the Queen and a court of the Company, there being no distinction between one court and another in that respect. Every zillah court I would have a court of the Queen and of the Company, and the sessions courts in the Mofussil. Those courts are considered by the Supreme Court only as courts of a corporation, not as courts of universal jurisdiction, but as courts of an exceptional jurisdiction set up by a corporation; whereas the Queen's courts are considered courts of universal jurisdiction. In consequence of that, a case arose, when I was in India, of this kind: a European in the Mofussil was accused of murder; the magistrate committed him for trial by the sessions court; the sessions judge, finding he had a European name and spoke English, inquired into his parentage, and found that to all appearance he was really a British subject; then the sessions judge and the magistrate entertained doubts whether they had jurisdiction. Now, if those courts were courts of the Queen, as I would make them, they would have general jurisdiction, and then anybody excepted from their jurisdiction would be bound to plead, and show the exception. But if they are courts of a corporation, they are bound not to exceed their jurisdiction; and whether the objection is taken by a party or not, they must take care that they do not go beyond the limits of their own jurisdiction, and must refuse therefore to try a man if they have reason to suppose that he is exempted from their jurisdiction. That is the sort of distinction which exists between a court which is

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a Queen's court and one which is not; and that I would entirely do away with. I would say that every zillah court and every sessions court should be a court both of the Queen and of the Company.

2900. Are you to be understood that your idea is that this Supreme Court, formed by a union of the present Supreme Court and the Sudder Court, should be presided over by judges appointed by the Crown, and that the judges of the inferior courts should be appointed as they now are by the Company?—I do not say that the Supreme Court should consist only of judges appointed by the Crown; I say that it should consist partly of judges appointed by the Crown, and partly of judges appointed by the Company. I do not know that that is what I should have invented, if I had had to invent, but finding the Supreme Court and the Sudder Court now existing and furnishing very good materials for such a high court, I would compose the high court in that manner.

2901. Sir *C. Wood.*] If the chief justice and a certain number of judges were appointed by the Crown here, and the remainder by the Governor-general on the spot, as the Sudder judges are now appointed, that would effect a constitution of the court such as you contemplate?—Yes.

2902. Beyond that, you would give to the courts throughout the country jurisdiction over all persons, whether Englishmen or natives?—Yes.

2903. *Chairman.*] Are there any other suggestions which you wish to make? —I was going to refer to the diversities existing in the penal law. In the Presidencies you have the English penal law unreformed, and requiring a good deal of reform. In the Mofussil you have, in Bengal and Madras, what was originally the Mahomedan law, and which still is, to some extent, the Mahomedan law with regard to crimes of a treasonable nature, breaches of allegiance. The Government of India, upon the occasion of an offence of that kind being committed near Calcutta, were informed by the judge of the 24 Pergunnas who would have had to try the offender, that he could administer nothing but the Mahomedan law as modified by the Regulations. In this respect that law is not modified by the Regulations, and consequently the offender could not have been convicted, because the Mahomedan law says that no allegiance is due to any one who is not a Mussulman, and as the Queen is not a Mussulman, no punishment could have been inflicted. I held that a different law existed, but, of course, I could not control the opinion of the judge. I held, that when any offence affecting the dominion of the Queen is committed in a territory which has been ceded to the Crown of England, the *jus coronæ* of England becomes the *jus coronæ* of that country. I think that the law which regulates the duty of allegiance as regards the subjects of the Crown, is necessarily the law of England in every English dominion, whether any statute has been passed to that effect, or any treaty containing provisions to that effect has been entered into or not. However, the judge told the Government that he could only administer the Mahomedan law, and that, according to the Mahomedan law, he could not punish that man. That, I think, is a great defect, which still exists; that there is a mass of Mahomedanism uneradicated from the penal law of the Mofussil.

2904. Did the man remain unpunished in consequence?—Yes, I believe the criminal remained unpunished; I do not think he was ever taken up.

2905. Mr. *Hume.*] In what districts in Bengal do those diversities of practice exist?—I was not speaking of a diversity of practice in Bengal; I was speaking of a diversity of practice between the Presidencies and the Mofussil.

2906. Does every Mofussil differ from the Presidencies?—Every Mofussil differs from the Presidencies, but not always in the same way; I have been speaking of the penal law in the Bengal and in the Madras Presidencies. The penal law at Bombay is different again; there they have a code which is a considerable improvement, I think, upon the Mahomedan law, but still it has many defects; those the Law Commission proposed to remedy by a universal penal code, which is prepared and fully ready for enactment. Upon that subject I should be glad if the Committee will permit me to read a passage from the report of Mr. Eliott and myself, who were directed by the Government of India to report upon all the suggestions and criticisms which had been made upon the penal code. My object in reading it is this: I observe in Mr. Hill's evidence given before the House of Lords last Session, he being a witness of great

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great weight, and having great knowledge of the subject, he, from a lapse of memory no doubt, has stated that Mr. Elliott and myself, in this report, did not give any opinion upon the general merits of the code. That is entirely a mistake; we did give an opinion upon the general merits of the code. The date of this, which is our second report, is the 24th of June 1847. We presented a first report, in which we examined the earlier chapters of the penal code, and pronounced an opinion decidedly in its favour, and recommending its adoption. We did the same with regard to the chapters we had examined in this second report, and we concluded thus: "Should the Government, on the whole, concur in the judgment we have expressed as the result of a very searching examination of the penal code in all its parts, and in our general estimate of it as a body of law, in a practical view, we would beg very earnestly to recommend the enactment of it for all the territories subject to the Government of the East India Company, except what is comprised within the local limits of the criminal jurisdiction of the courts established by Her Majesty's Charter. The strange anomaly in the jurisprudential condition of British India, which consists in the three capital cities having systems of law different from those of the countries of which they are the capitals, cannot, we imagine, be permitted to exist much longer. The year 1854 will probably put an end to it, if it should be permitted to endure till that epoch; but the question arises, should the assimilation be brought about by extending the law of the Presidencies over India, or by extending the law of India over the Presidencies, or by an amalgamation of the two? In our opinion, if the penal law of India consists of this code, and the civil law of India consists of portions of the Hindoo and Mahomedan law, and that system of English law which our Commission have recommended as the *lex loci*, which may be described as the English system of rules for accomplishing the ends of universal jurisprudence, there can be no doubt that these laws should be extended over the Presidencies in preference to either of the other schemes; but at the present moment we do not recommend the enactment of this code for the Presidencies, unless the judges of any of the Supreme Courts should express a wish to that effect. We do not advise the general repeal of the penal laws now existing in the territories for which we have recommended the enactment of the code; we think it will be more expedient to provide only that no man shall be tried or punished (except by a court martial) for any facts which constitute any offence defined in the code, otherwise than according to its provisions. It is possible that a few actions which are punishable by some existing law, and which the Legislature would not desire to exempt, may have been omitted from the code; and in addition to this consideration, it appears to us that actions which have been made penal on special temporary grounds ought not to be included in a general penal code intended to take its place amongst the permanent institutions of the country. The law, for example, which prevents the natives of India, of the labouring classes, from exercising the ordinary right of freemen by contracting to carry their labour to any market which may seem to them advantageous, though it may be a useful and necessary law while a large part of the population is in a state of ignorance which unfits it for the discreet exercise of such a right, is yet obviously a law marked out for abolition when advancing civilisation shall have rendered it unnecessary, and consequently vexatious; and such a law should not, we think, be suffered to intrude into a code intended to endure, we will not say for ever, but until more ample experience and the reflections of jurists and statesmen may bring to light new principles more effectual for the prevention of crime. Any existing penal law not virtually superseded by the code which the Legislature does not approve of ought, in our view, to be specifically repealed. If the Legislature adopts our recommendation to enact the code, we beg to point out the expediency of immediately making it a subject of study in the Government colleges, and of requesting the Council of Education to introduce questions framed upon its provisions, and upon the notes appended to it, into the examinations for carrying into effect Lord Hardinge's resolution of 10th October 1844. It is not the least of the many advantages of a penal code of which the principles are purely rational, and of course always consistent with each other, that a student may become thoroughly master of it without the aid of any extrinsic learning. The English criminal law cannot be fully understood without a considerable share of historical and antiquarian knowledge. Knowledge of that kind is no doubt an elegant and even a useful accom

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plishment; but it is no more necessary to the comprehension of a penal law founded solely on principles of morality and jurisprudence, than an acquaintance with the biography of Euclid is necessary to the comprehension of the problems and theorems of geometry. The study of the code will require no such foreign illustration, and will on this account, and also on account of its systematic form, be a task incomparably easier than the study of the criminal law administered by the Supreme Court; and the consequence will be, that in a few years the penal law of India will be familiarly known to a great number of young men of the middle classes, who, besides furnishing recruits to the judicial service, will constitute a public prepared to criticise the proceedings of the criminal courts in a fair and enlightened spirit." The Committee will see that that is a very strong recommendation.

2907. Do you still abide by that opinion given so decidedly on the 24th of June 1847, or have you seen any reason to alter your opinion, and, if so, to what extent?—I abide entirely by that opinion, only I think we are now prepared to extend the code to the jurisdiction of the Supreme Court, which I then said we were not prepared to do; but I presumed that by the year 1854 the necessary change would be made, and it could be introduced. I now think that the change should be made, and that the code should be the universal law of India.

2908. Sir *C. Wood.*] In that case you would not think it necessary to have a separate court for the administration of the English law even within the Presidency towns?—No.

2909. Mr. *Hume.*] When was that penal code introduced at Bombay?—I think it was in 1827; it was during Mr. Elphinstone's Government. I have hitherto spoken of diversities in the criminal law; I will now advert to the civil law. You have in the Presidencies the unreformed English law, and the Hindoo and Mahomedan law. In the Mofussil you have nothing but the Hindoo and the Mahomedan law administered to Hindoos and Mahomedans, modified by equity and good conscience, and with regard to all other persons you have no law at all. When cases in which persons not Hindoos or Mahomedans are parties come before the Mofussil courts, the courts experience great difficulty; they endeavour to find out what the law of the country to which the man belongs is. With regard to a Frenchman, they ask the opinion of the Avocat de L'Empereur at Chandernagore as to what would be the French law applicable to such a case, and they endeavour to administer it. With regard to East Indians, they not being entitled to the law administered in the Supreme Court, which is the English law, are really entitled to no law at all; there is no system which can be applied to them. The case is the same with respect to the Armenians. The Mofussil courts, when Armenian cases have come before them, have endeavoured to find out something about the Armenian law, and two very old codes were heard of; they were never seen, but they have been heard of, and evidence has been given regarding their contents, and then the case has been decided in that manner. This is, of course, a state of things which ought not to be suffered to exist. It would be remedied by the proposition of the Law Commission as to the *lex loci,* which was to consist of such rules of English law as are founded on reason only; not such rules as are derived to us historically by reason of our feudal origin, and the system of tenure and conveyancing which results from that; but such rules, and they are very numerous, as are founded on reason only. So much of the English law codified would constitute the *lex loci* of the Mofussil, to be administered to everybody who is not a Hindoo or a Mahomedan. We recommended also that the Hindoo and the Mahomedan law should be codified, which they very much need, for they are in a state of extreme uncertainty. I think Sir William Macnaghten, who is the great English authority on the subject, says, "You may always get an opinion from a very competent man on either side of any question of Hindoo law." Those three codes we proposed at once to enact for the Mofussil, and now I should say, if we obtained this proposed court, the same law should be the law of the Presidency.

2910. Does that apply equally to Madras and Bombay?—Yes. Another diversity which exists is, that in the Presidencies there are no stamps upon legal proceedings; in the Mofussil there are a great many; it is a very heavy burden, and I think a very pernicious one. That is a question which is complicated, of course, with revenue considerations, and I do not know, therefore, when

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when it may be possible to abolish the stamps in the Mofussil, but as soon as financial considerations will permit, I should very strongly recommend, and the Law Commission very strongly recommended that they should be abolished. The whole question of the impediments to justice of that kind, stamps and institution fees, was considered by the Law Commission very fully in the report which they presented to the Government in November 1838. That report has never been printed nor laid before Parliament, and I should be glad that it should be printed.

2911. What was the title of that report?—It had no title, but the subject of it was the institution fee in Mysore. Litigation had grown to a very great extent in Mysore, and General Cubbon was driven to recommend that that litigation should be checked by an institution fee. This proposition of his, with the reasons by which he justified it, was submitted by Lord Auckland to the Law Commission. The Law Commission entered into an elaborate examination of the whole question, coming to the decision that no such fee should be instituted, and pointing out the way in which they thought that vexatious litigation should be counteracted. That report had the singular good fortune of convincing General Cubbon himself.

2912. What was the date of that recommendation?—The 9th of November 1828.

2913. Mr. *Macaulay.*] Was your recommendation complied with?—Certainly; the recommendation that the institution fee should not be established was complied with, and I believe the rest of our recommendations were complied with,—I mean as to the proper mode of repressing the vexatious litigation,—but I am not quite certain about that. I know, however, that General Cubbon admitted that the arguments were irresistible, which I thought was exceedingly creditable to him.

2914. Mr. *J. Elliot.*] What was the mode you proposed of repressing litigation?—The mode which we proposed was fining the party who had instituted a vexatious suit, after it was discovered to be vexatious by the trial of the case.

2915. Sir *C. Wood.*] Are you aware whether your proposal, when adopted, answered its purpose?—I believe it has answered its purpose very fully. General Cubbon has said that it does so.

2916. Mr. *Macaulay.*] You never heard afterwards any renewed complaints of excessive litigation in the Mysore, did you?—No.

2917. *Chairman.*] Will you proceed with any other observations which you have to make on this subject?—One other diversity only I was about to mention, which is, that the periods of limitation in the Presidencies are all limitations belonging to the English law; twenty years for the recovery of land by ejectment, and so on. In the Mofussil, the Hindoo law, I think, had a limitation of twenty years. The Mahomedan law books contained no limitation; but I believe the limitation of twelve years, which is now the established limitation in the Mofussil, must have been derived from the practice of the Mahomedan courts. I hardly know how else that period was fixed on. This subject early came under the notice of the Law Commission, and they presented a report, in which they recommended that the period adopted in the Mofussil should be adopted for the whole of India, for the Presidencies as well as for the Mofussil. That was fully assented to by Sir Lawrence Peel and Sir Henry Seton; but, like all other emanations from the Law Commission, it ended in nothing.

2918. Sir *T. H. Maddock.*] Was it objected to?—I do not now recollect any objection to it; I only know that no change took place.

2919. *Chairman.*] You mentioned a case of grievance of the Armenians; are they a numerous body in India?—Yes, they are a numerous body; but there are no statistics on the subject, and I cannot say what their number is; they are a numerous body, and a very respectable and opulent body. They themselves feel the grievance, for they sent home a petition to Sir Edward Ryan and myself, requesting us to get it presented to the two Houses of Parliament. Lord Campbell was so good as to present it for us to the House of Lords, and some Member of the Lower House is about to present it to the House of Commons.

2920. Are not they principally resident in the Presidencies, and subject to the law there?—No, I think they are generally resident near the Presidencies, but not in them.

2921. Mr. *Macaulay.*] Some of them are considerable landowners, are not they?—

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they?—Yes; those who transact their business in the Presidencies, I think, mostly live in the Mofussil.

2922. Sir *T. H. Maddock.*] In case it should be resolved to adopt the English law, in the cases which you have described, where there is no law, would you adopt the English law in its present imperfect state, or would you prefer to wait till it could be codified?—If I were quite certain of getting it introduced when it is codified I should prefer to wait, but the difficulty I found in India was, that if we lost an opportunity of legislating we very possibly lost it for ever; and therefore I was very anxious, and drew up an Act to that effect, that the English law should be introduced in general terms under the ordinary designation, so much of the English law as is adapted to the circumstances of the country, but with some positive exceptions; the exception of tenure and all the feudalism of the English law. There was this important modification also, that all succession to property *ab intestato* should in all cases be regulated by the principle of the Statute of Distributions, and not by the English law of real property. With those provisions, I think it would be very safe to introduce it at once, though of course it would be much more easy to administer when you had it in the form of a code; and if I could have been certain that if we had waited till the code was drawn we should get it passed, I should not have proposed to enact it in that form, but I felt very great doubts, which the result has fully justified, that we should lose the opportunity if we did not seize it on its presenting itself. Lord Hardinge was of the same opinion, and therefore we read the Act a first time; however, orders came from home not to pass any such Act without previous sanction.

2923. You have stated that, in your opinion, if such a legislative body were formed in England for the purpose of framing and codifying laws for India, you imagine two years would be a sufficient period for them to accomplish the work entrusted to them; would not you prefer to wait two years before you introduced the English law in its present imperfect state into India at all?—I would prefer to do so; but I think even to introduce it in its present imperfect state,—I do not mean without the modifications contained in my Act, but with the modifications contained in my Act,—would be a very great improvement upon the existing state of things in the Mofussil, though not so great an improvement as the same law reduced into the form of a code would be.

2924. If that legislative body which you have suggested were formed in England, do not you suppose that the Minister of the Crown would send out the laws which had been framed in this country to be enforced in India without consulting the Governor-general and the other high authorities there?—No, I think the Governor-general and other high authorities may very properly be consulted.

2925. Then very considerable delay would arise before the opinions of the Governor-general and the Governor and Councils could be taken on the subject?—A considerable time must elapse no doubt.

2926. Their opinions might lead to some modifications of the results which had been come to by the legislative body in England?—It might possibly be so.

2927. You have stated an opinion that the appellate court to be formed as you propose in India might conveniently consist of those judges who are now in office there in the Queen's courts and in the Sudder courts, because they are a machinery at hand for the purpose; have you taken into consideration how the future appointment of those judges should be made? All the judges in India except the judges of the Supreme Court, who are now appointed by the Crown, are appointed by the Governors of the respective divisions of India; would you propose that all those judges hereafter should be appointed by the Governor-general and the Governors of the subordinate Presidencies, or, as justice is to be administered in the Queen's name, would you have the warrant of appointment of all those judges, both those which are called Queen's judges and those which are called Company's judges, issued in the name of the Queen?—As at present advised, I am disposed to think the appointments should be as they are now, that the Supreme Court judges should be appointed by the Crown, and the Sudder judges, or that portion of the new court which is to consist of Company's judges, should be appointed as the Sudder judges are now, by their respective governments.

2928. How would you distinguish one from the other when you had formed one

one amalgamated court; there would then be no longer any distinction, would there?—There would be no other distinction but that of appointment.

2929. You would limit the number to be appointed by the Crown and the number to be appointed by the Governor-general?—Yes.

2930. Mr. *Hume.*] Do not the judges take rank in the courts by seniority? —I would have a Chief Justice, who should be superior to all the rest of the court; there would be a great deal to do in the way of the distribution of the business which came up; the Chief Justice should be the person who should exercise that authority.

2931. Mr. *Macaulay.*] Would you have the Chief Justice always one of the judges appointed by the Crown?—Yes, I would; I think it is hardly likely that you would get a jurist of sufficient eminence from the Company's service to be placed at the very head of the whole of the judicature of the country.

2932. Sir *T. H. Maddock.*] As at present existing, the judges of the Supreme Court hold a certain rank, whereas the judges of the Sudder Court have no rank at all, except such rank as may depend upon their seniority of standing in the service; is not that the case?—I think that is not so; I think the Sudder judges have a rank.

2933. Mr. *Macaulay.*] Has not there been a late order or regulation changing the precedence?—I think there has; I think the Sudder judges have rank and precedence.

2934. Sir *T. H. Maddock.*] The object of my question was to ascertain whether you would leave any distinction of rank after the amalgamation, or whether, with the exception of the Chief Justice, you would place the judges on an equality in point of rank, whether their appointment came from the Governor or from the Crown?—I cannot say that that is a point which I have considered; being asked the question, I do not see any reason why they should not rank according to the dates of their commissions, with the exception of the Chief Justice.

2935. Mr. *Hume.*] You have mentioned having prepared an Act for the introduction of the English law into India; in what year was that?—In the year 1840.

2936. Did you intend that that Act should apply to all India?—To all British India.

2937. Have you considered whether the same law should apply to Prince of Wales Island, or any of the other dependencies?—In Prince of Wales Island the English law is already the law. With regard to such places as Scinde and the Punjaub, I would not at once introduce any of this law. Probably considerable time must elapse, and the inhabitants of those provinces must become a good deal more civilised, before any regular system can be introduced.

2938. You propose to introduce it with modifications, some of which you have stated to the Committee. Will it not be requisite again to reconsider whether any other and further modifications could be made with advantage?—Certainly; I have stated that what I proposed was, that a code of English law should be drawn up, and in that code all modifications thought desirable would be made.

2939. The object of the Act was to carry out the code which you proposed to have established?—What we proposed was, that the English law should be at once introduced in general terms, with certain specified modifications, to be thereafter codified; that proposition, as I have stated, was approved by the judges of the Supreme Court, some of whom were so good as to offer to co-operate with me in drawing up the code which was to be framed.

2940. That opinion you hold at the present time?—That opinion I hold at this moment.

2941. Have you considered whether that law, supposing it to apply to the three Presidencies, might be extended to Burmah?—No, I cannot say that I have; If any portion of Burmah now belongs to us, I should hope that in time it will become so far civilised as to be capable of being put under the same system as the rest of British India.

2942. Mr. *Mangles.*] You spoke of the Hindoo law being the law of the Mofussil courts. Is it not the fact that it has been so much modified by the regulations and by the practice of the courts, that it has resolved itself into a law of equity and good conscience, and has almost entirely lost its identity as the Hindoo law?—With respect to the penal law, there is no Hindoo penal law

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law administered. The Mahomedan penal law has lost much of its identity, but it retains it, as I have already stated, in respect to questions affecting the dominion of the country.

2943. Is not it the case that the civil law contained in the regulations of the Company places the Government and its subjects upon a footing of perfect equality in all the courts in all imaginable cases?—Quite so, I think.

2944. Both revenue and otherwise?—As far as I know.

2945. Is not that a great superiority over the English law as existing in this country?—Yes, I should think that it is; I think, however, there are means of getting justice in England, though they are not the same direct and obvious means which apply to the Mofussil of India.

2946. Do you think there are always in this country means of obtaining redress; for example, for an undue seizure of goods by a custom-house officer as being smuggled goods, which turn out eventually to have paid duty, whereby the party is exposed to great loss and damage?—I believe there is redress for it here.

2947. Sir *T. H. Maddock*.] In this country there are no restrictions against the manufacture of salt, or the growing of the poppy, such as exist against the subject on the part of the Government of India?—There are not, I think.

2948. Mr. *Mangles*.] A subject in this country would have no redress against the Secretary of State who issued orders by which he was subjected to loss, would he?—I do not think that that is so.

2949. Can he prosecute the Crown without the leave of the Crown?—He cannot prosecute the Crown, but he can prosecute the Secretary of State, if the Secretary of State has injured him. He cannot prosecute the Crown; but even there there are means by which the Crown suffers itself to be approached by a petition, and a decision takes place according to the principles of law.

2950. Does the Crown always grant the prayer of that petition?—I cannot answer that; I suppose it always does, where the Attorney-general thinks that there is a case really calling for redress.

2951. Even there, if a subject is declared entitled to damages, can that subject enforce the recovery of those damages or costs?—The Crown pays no costs.

2952. Can he enforce the payment of the damages?—I suppose he cannot enforce anything against the Crown.

2953. Is not that a very remarkable superiority in the law in India over the law of England?—It is, but it is more so in point of form, I think, than in substance; I do not know that anybody is ever injured by the Crown in this country.

2954. You advised that there should be a legislative body residing in this country, did you not?—What I intended to suggest was, that the works of the Law Commission should be submitted to a temporary Commission, to be appointed here, not that the Commission should have the power of legislation, but that it should examine the works of the Law Commission, come to a decision upon all their propositions, and then make a recommendation to the Board of Control.

2955. Sir *T. H. Maddock*.] You would still continue the legislative body in India?—Certainly.

2956. And therefore you would not propose that any general legislation for India should be conducted in England?—No.

2957. Mr. *Hume*.] You have referred to the Legislative Council in India; how would you constitute that, and what duties would you assign to it?—I am not exactly prepared to suggest any alteration in the present constitution of the Council, except that I think natives should be admissible to it; indeed, they are by law admissible to all offices, and I think, practically, they should be admitted to all. I am not prepared to say that there is any native now fit to become a member of the Council, but I have no doubt they will be as our education goes on. I am not prepared to recommend any alteration in the present constitution of the Council, except that I think it very desirable that there should be a member from Madras and Bombay in it.

2958. Do you think a Council sitting in Bengal is capable of legislating for Madras and Bombay as well as for Bengal?—Yes; I think it would better, and more fully competent, if the suggestion I have made were adopted, that is, if there were a member from Madras and Bombay always in the Council.

2959. Should

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2959. Should that member be selected from the civil or the military department, or should it be left to the selection of the Government?—I should say it should be left to the selection of the Government.

2960. Would one member be sufficient from each of those Presidencies?—Yes, I think one member would be sufficient.

2961. Do you, with that view, contemplate there being any Council at Bombay or Madras?—Only an Executive Council.

2962. Consisting of what number?—Consisting of the present number. I do not mean to say that it is the best constitution that could be suggested, but I have not sufficiently considered that subject to be able to propose any alteration, not seeing distinctly any alteration which would be an improvement.

2963. You think if the laws were codified by a Council at home, as you suggest, it would afford great facility for generalising the administration of the law in each of the Presidencies, and tend to an improvement in the administration of justice?—I do.

2964. Mr. *Lowe.*] You have mentioned some of the inconveniences which occur from the administration of justice not being carried on in the name of the Queen; are there any others which occur to you?—There is a conflict of jurisdiction which takes place occasionally under the present system. I recollect a case of this kind occurring; it was a case which was sent by the Government to the Law Commission for their consideration in the process of codifying. It was a case in which a person in the Mofussil had been put into possession of a factory by a summary decision of a Mofussil magistrate. The party against whom the decision passed ought, if he wished to try the question, to have proceeded by a regular suit in the Mofussil court; instead of doing that, he obtained a judgment in Calcutta against a third person in the Supreme Court of Calcutta, collusively I suppose, but I am not certain how that was. He then got the sheriff of Calcutta to appoint his clerk the bailiff for the purpose of executing this judgment, and he got a person in the Mofussil to point out this factory, into which his antagonist had been put by the Mofussil magistrate, as the property of the defendant in this suit in Calcutta; thereupon the man whom the Mofussil magistrate had put into possession was turned out, and the opposite party put into possession by the bailiff of the sheriff of Calcutta. The magistrate then applied to the Advocate-general to know what he was to do under such circumstances. The Advocate-general advised him to do nothing, but only to prevent any riot with regard to the possession of the factory. The party, who was thus turned out by the operation of the judgment and execution of the Supreme Court, applied to the magistrate to know what he was to do; he was answered that the sheriff of Calcutta, or his bailiff, could only be sued in the Supreme Court; and was driven in this purely Mofussil case, and of which the Supreme Court knew absolutely nothing, to seek his remedy, having been put into possession too by the constituted authorities of the country, in the Supreme Court of Calcutta. He did seek a remedy there, and I believe obtained damages; but that evidently is a very inconvenient and irregular mode of administering justice.

2965. What defect of the law is the cause of that conflict?—The defect in the law is the having those two systems. If you had a uniform system of courts, with one great court at its head, all questions relating to this factory would have been decided by the local court to which the jurisdiction belonged. No separate jurisdiction sitting in Calcutta would think of interfering with it except through the local court, which was already in possession of the questions which arose respecting it.

2966. Mr. *Mangles*.] Probably the man who had been put into possession by the magistrate never heard of this suit going on in Calcutta?—I believe he heard nothing of it till he was turned out by the bailiff.

2967. Sir *T. H. Maddock*.] Do you consider that an isolated case, or is it one of frequent occurrence?—It seems obvious that such cases are likely to occur frequently.

2968. And in practice, do they occur?—I cannot speak of many such cases coming to my knowledge.

2969. Mr. *Lowe.*] Can you mention any other inconvenience which arises from not carrying on the administration in the name of the Queen; with respect to offences committed on the high seas, is there any difficulty experienced?—There is a great difficulty, but I do not know that it arises from that cause.

 2970. What

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2970. What is the difficulty?—There is, first, difficulty in the construction of the statute; and secondly, frame the statute as you will, it is very difficult to frame a law giving the legislative powers you would desire to give, and withholding those you would desire to withhold; that difficulty arises out of the nature of a limited, and local, and subordinate Legislature.

2971. Mr. *Mangles*.] How do the difficulties you have described arise from the courts not being carried on in the name of the Queen?—They (that is, the difficulties I formerly described) arise from there being two conflicting sets of judicature; one happens to be the judicature of the Queen, and the other of the Company. It would be very desirable, with reference to the Indian Legislature and the difficulties I am now speaking of, if some proper terms could be found giving the Legislature of India power over those who navigate ships belonging to Indian ports; but it is not very easy. At present the opinions given by the law officers at home have been to the effect that the Legislature of India cannot legislate for crimes committed upon the high seas.

2972. Sir *T. H. Maddock*.] And great inconvenience has arisen in consequence?—Great inconvenience has arisen.

2973. Mr. *Lowe*.] Would you increase the powers of the Indian Legislature?—The powers of the Indian Legislature are exceedingly large; they are not so accurately defined, perhaps, as they might be. It used, for instance, to be disputed whether we could create a corporation; it was said that to create a corporation was an infringement of the restriction with respect to the Queen's prerogative. I thought otherwise, and while I was fourth member of Council we did create two corporations. I thought the restriction regarding the prerogative meant only that we should not enact, for example, that the Queen should not hereafter herself create a corporation in India. That, I think, would be an act infringing upon the prerogative of the Queen, but I do not think to do by legislative power what the Queen does by her prerogative is any infringement of the prerogative.

2974. Mr. *Mangles*.] Were there difficulties of the same nature as to the patent law?—Yes; and there are other difficulties with regard to legislating for persons within the territories of the native princes.

2975. Sir *T. H. Maddock*.] Would there be any difficulty in extending the powers of the Legislature, so that there might be no objection to their legislating for British subjects in foreign states in India?—No, I think there is no difficulty with regard to British subjects in foreign Indian states.

2976. I mean with regard to Indian British subjects?—That might be done, but the difficulty applies to the subjects of other states.

2977. What you call foreign states in India are not exactly in the position which we understand in Europe when we speak of foreign states, are they, they being for the most part in a subordinate position, subsidiary, and with their powers of all descriptions greatly curtailed?—It is that anomalous position of those states which makes the difficulty. If you were prepared so say that the Nizam's territories are our dominions, then you might legislate for Frenchmen, for example; but if you are not prepared to say that, if you are not prepared to take the responsibility of the government of the Nizam's territories, as regards France, France would object to your punishing a Frenchman for a crime committed by him in the Nizam's territories.

2978. Mr. *V. Smith*.] You were fourth member of Council, were not you?—I was.

2979. Are you prepared to give the Committee any opinion as to any amendment or alteration which it might be desirable to make in the position of that member of Council?—I should recommend that he should be allowed to sit and vote upon all occasions in the Council, and not only upon occasions of the passing of laws. It is an inconvenient restriction, and cuts him off from a great deal of the knowledge which he would acquire if he sat and voted upon all occasions.

2980. You think the position of such a person sent from this country is valuable as an adjunct to the Legislative Council?—I think so.

2981. Are there any other persons whom you would wish to see placed upon the Council?—I have nothing to suggest as to the Legislative Council but the addition of a member from Madras and Bombay.

2982. Holding a legal position there, do you mean?—No; a servant of the East India Company.

2983. Selected

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2983. Selected by whom?—Selected as the others are; that is, by the Court of Directors.

2984. Sir *T. H. Maddock.*] If the supreme authority in India were carried on in the name of the Queen, would you not think that the difficulty of legislating for the Indian subjects of the Queen in foreign States would be diminished?—I do not very distinctly see how it would be so.

2985. The Queen has no treaties with any of those petty dependent feudatories which have been alluded to in a former question. As no laws hitherto have been enacted in the Queen's name, would not it make a great difference in considering that branch of legislation if all legislation were hereafter carried on in the Queen's name?—Assuming that the Company has treaties with those States, I think the Queen would be bound to respect those treaties just as much as the Company itself.

2986. The treaties are not treaties between equals; what are called treaties are many of them rather in the shape of grants, are they not, specifying obligations?—Nevertheless, whatever they are, I should say, whatever impediments they throw in the way of legislation by the Company they would also throw in the way of legislation by the Queen. The Queen, I think, would be bound to respect whatever rights those treaties or those grants may confer, just as much as the Company is bound to respect them.

2987. Viscount *Jocelyn.*] If your proposition were carried out, of a member from Bombay and Madras being appointed to the Supreme Council, do you consider it important that he should belong to the civil service?—No, I think he should be appointed either from the civil or the military service. The best man should be taken from either service.

2988. Do you think that a military man appointed on that Council would be likely to have as accurate a knowledge of what is required in the public works and the internal arrangements of the country as a civil servant would have?—Yes, I think there are a great many military servants who are quite as competent: but I by no means intend to say that a military servant should always be appointed.

2989. Would you bestow the appointment as a reward for military service?—No; if I myself had the appointment, I do not think I should give it as a reward for military service. I should give it upon the ground of fitness for the occupation.

2990. The great object you would have in view would be to furnish information to the Supreme Council in reference to the wants of the Presidency from which the member would attend?—Yes.

Malcolm Lewin, Esq., called in; and Examined.

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2991. *Chairman.*] WILL you state to the Committee for what period you were resident in India?—I was about 25 years resident in India, during which time I held almost every office in the Mofussil; for the last five years I was a judge of the Sudder Adawlut; I was also appointed a Member of Council, but I was removed from that office, and also from the office of judge of the Sudder Adawlut. I held other offices in the Mofussil; I was Principal Collector, and Collector and Registrar; in fact I have held every office in the Mofussil.

2992. In what Presidency?—In the Madras Presidency.

2993. When did you return?—About five years ago.

2994. You were resident in India for 25 years previously?—Yes; not 25 years consecutively, but at different times.

2995. The situations you have mentioned having held, and your residence there, must have led you to form an opinion as to the efficiency of the judicial system in the Presidency; will you state to the Committee what that opinion is?—The basis of the system I think is good, but I think there are defects in it; there is an inconclusiveness and uncertainty about its proceedings which paralyse its efficiency. I think its decisions are scarcely ever conclusive; for instance, if a decree is passed, it being the judgment of a single individual, there is always a certain doubt attaching to it which leads to further litigation. I think one mode of correcting that would be by the introduction of a system of juries much more extensively than at present, and that then if a decree were passed it should not be appealed from; after decree there must be execution. Fictitious

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titious claims are set up to the property taken in execution, and there is no means of adjudicating those claims satisfactorily. I think juries might be introduced not only in civil cases, but I think they should be the basis of our system in all judicial cases; all issues of fact should be tried by a jury. It has been suggested that great difficulty would arise in assembling juries; it is not however my opinion that any difficulty whatever would arise. I believe that in every place where a moonsiff is situated you would find at least 300 or 400 men fit for that office. In places where zillah judges are situated, and where subordinate courts are situated, I think at least two or three times that number might be found. I believe till juries are introduced into the system our civil proceedings will always be at a disadvantage; there will always be an inconclusiveness about them which will lead to further litigation.

2996. Do your observations apply to all the courts in India?—Yes, except the lowest courts, such as the village moonsiffs; but a village moonsiff has the power in deciding all cases of having a jury if he pleases.

2997. Is that power frequently employed in Madras?—Very little indeed; there is a great deal of cumbrous machinery about the system, so that it can hardly be carried into effect. The regulations for it are the regulations of 1816, introduced by Sir Thomas Munro. Those regulations require answers in writing, a system very much like the system that prevails in our civil courts, and I think the jury or the punchayet would be in many instances unable to carry it out. In the criminal courts I would certainly introduce the system of juries immediately, but for the circumstance that the introduction of the jury system implies that there should be a good judge; unless you have good judges, the jury system in India would be the very worst system of all. You might have a judge who would so browbeat the witnesses and the jury, that it would be impossible to depend upon their decision. We have a regulation in Madras which has never been acted on; the regulation of 1827, I think it was passed under Sir Thomas Monro's administration, which provided for the employment of juries before the circuit court. In that case the judge is empowered to make his own notes the record of the case; but the judges are in many instances so bad, and in fact so little to be depended on, that no judge of the Sudder Adawlut would ever decide a case upon the notes of any such judge; there might be a few instances of their doing so, but it would be an exception to the general rule. Some of the judges in Madras would not in this country be trusted with any office whatever.

2998. Except in the village moonsiff's court, would you introduce juries in all the courts, in the trial of civil actions?—In all matters of fact; I would allow them to decide all matters of fact.

2999. In those courts presided over by natives, as well as those presided over by Europeans?—Yes, the jury system is in accordance with the customs of the country; it is one very much upheld in their estimation, and I think there would be no difficulty in carrying it out; but then it must be compulsory. There is a certain apathy among the natives of India, that unless they are obliged to resort to this system, they will not do it; and the vakeels endeavour to induce them to take suits to the courts which might be decided by the Punchayet.

3000. Would you continue the present system of appeals, or make the decisions summary and decisive?—I do not think it is possible to get rid of the system of appeals; you can have no dependence upon the judges. If the judges were good, and you had a verdict of a jury with respect to the facts, you might get rid of many of them. In fact, the object of establishing the jury would be to get rid of appeals; but till you have that, I do not think it is possible to get rid of appeals, as the case now stands.

3001. Do your objections to the judges apply to the native and the European judges equally?—They apply more to the European judges than to the natives, I think. I heard some discussion in this room some days ago, in which the European judges were spoken of as incorrupt and incorruptible. My experience has been, and I am ready to prove it, that the Indian native judges are quite as incorrupt and quite as incorruptible as the European judges. I could adduce cases which would show that the integrity is rather on the side of the native than the European; and the ability is decidedly on the side of the natives.

3002. You do not therefore think that it is necessary to give higher salaries to the native judges in order to insure their integrity?—I think it is very unjust to confine them to their present salaries, though I can hardly say that they

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they do not get sufficient salaries, from the fact that they do their duties honestly with their present salaries; but when we are giving Europeans large salaries, justice requires that the natives also should receive more than they have now. Taking the case of a moonsiff, I would give him other jurisdiction than that which he now has. The moonsiffs are the ablest judicial officers in my opinion that we have. I would give those men a criminal jurisdiction, and if they have a criminal jurisdiction, they must at the same time have an additional amount of pay, I suppose; it would greatly add to the respectability of the office. By giving them criminal jurisdiction you would relieve the magistrate from a good deal of his present jurisdiction. A great deal of the jurisdiction which the magistrate now has appears to me almost absurd. The magistrate is, of course, a collector also; he has very great power in judicial matters; he has the power of deciding cases, and of inflicting one year's imprisonment, with fine and stripes also to the number of 150; it is impossible that the magistrate can adjudicate all such cases, and also perform his duties as collector. I think also that one of the chief things to be done in order to improve the native service, which I have heard somewhat disparaged in this room, would be to place them on a more secure footing than they now are. The native servants, I think, have not justice done them in comparison with the European; their offices are not so secure; they are turned out often without any sufficient reason, and when they are turned out they have no appeal. The results of a service of 30 or 40 years are scattered to the wind, sometimes without the slightest compunction; and a man who would be entitled to a pension, is turned adrift and deprived of his pension without even a judicial sentence being passed upon him. The Government, of course, have the right to say to a man, "We have no longer any confidence in you, and we will deprive you of your office;" and if the Government passed no penal sentence upon him, no one would have a right to complain; but if a penal sentence is passed upon the man, and he is deprived of a pension, which he is entitled to by a service of 30 or 40 years, without trial, there is a monstrous injustice done him. I could name an instance which occurred within my own observation to a man named Napatty Shashegerry Row; this man was formerly under me when I was collector of Guntoor, and conducted himself with the greatest possible credit; I believe he was held in more respect in the district than any man in it. My assistant informed me, on my reaching Guntoor, "He is a man of so high a character in the district, that it is a common saying among the people, if Shashegerry Row says so and so it must be true." I afterwards went to Rajahmundry as collector; the district was in disorder, and the Government sent me to put it in order. I found that, owing to the negligence of my predecessor, corruption existed from the highest to the lowest servant; I found it exceedingly difficult to get on without some little exotic blood, and I sent for this man and another officer, whom I had had with me in Guntoor. Those men came to me, and were of the greatest possible service to me: this man conducted himself with the greatest possible credit, as I understood through two other collectors. He afterwards returned to Guntoor as head sheristadar; he then fell into some difficulties, and was removed from his office with the loss of his pension; this happened while I was in Madras.

3003. In what year was that?—In 1847 or 1848. He came to me as an old friend of his, and asked me what he was to do; I advised him to apply to the Government for a trial, but not to ask for his office, or for anything else, but to insist upon a trial; in fact, I wrote one or two letters for him to the Government, to induce the Government to place him on his trial. But the Government, I suppose, knew perfectly well that the charges could not be proved against him, and therefore they turned him out without it.

3004. Will you state what the difficulties were into which he fell?—He was accused of being instrumental in a certain part of the assessment not coming into the Government coffers; a new collector had been put into the district, who had come from another part of the country where a different assessment prevailed, and he wanted to introduce the same plan of collection into Guntoor; he wanted to delay the collection in Guntoor in the same way as it was delayed in Canara, the consequence of which would have been that the ryots would have been allowed, under the system introduced by him, to carry off their crops before the collection was actually paid; whereas, under the system prevailing in Guntoor, no man could take away his crop till he had paid the revenue

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revenue demanded, or made some sort of engagement to pay it. This sheristadar remonstrated with the collector, and said, "If you allow the collections to be suspended in this way, you will lose all the revenue:" I know that this happened, because I saw the letter of the collector, Mr. Stokes, in which he admitted that this sheristadar had remonstrated with him; but there were other complaints of the same nature, to the effect that he had been guilty of malversation, and that the Government had lost a great deal of money through him. All this, for aught I know, may have been perfectly true; the complaint which the man made, and which I think was a very substantial complaint, was, that he was deprived of office, with loss of reputation and of a very large pension without a formal trial.

3005. Do you mean that a different system is pursued by the Government towards native officials from that which is pursued towards European officials?—Certainly; I should be quite able to substantiate that statement. This man afterwards appealed to the Court of Directors, but could not be heard there. I have only mentioned these facts, because I do not like to make assertions of this kind without substantiating them by facts.

3006. Sir *R. H. Inglis.*] Was the party to whom you refer dismissed without any inquiry?—He was dismissed without that inquiry which the regulation, in my opinion, required should have been gone through. There is a regulation of 1843 or 1844, appointing the means of inquiring into the conduct of civil servants; under that regulation the man ought to have been tried. If the Commissioners had found him guilty of what was imputed to him, they were bound to send him before a criminal jurisdiction to answer for it; but, instead of that, he was dismissed upon the fiat of a single man.

3007. Sir *C. Wood.*] What was the nature of the inquiry that was made?—I cannot tell precisely; the Commissioner was sent up there, and he had the powers of the Board of Revenue. All I know is, that it was an extra-judicial inquiry made by a single man. It was not a formal inquiry, in which he was put upon his trial, and in which he had an opportunity of making a formal defence.

3008. Who was the person sent to make the inquiry?—He was a member of the Board of Revenue, who was sent up to inquire in the northern sircars; to make revenue inquiries.

3009. Sir *R. H. Inglis.*] Was he the person who in the case of a European would have been sent to make a similar inquiry?—He was not sent for the purpose; he had the power of inquiring generally into all the revenue affairs in the northern sircars.

3010. In the course of that official duty, he investigated those particular facts?—I suppose so.

3011. Mr. *V. Smith.*] You said the man was treated differently from the manner in which a European would have been treated?—If a European had been tried at all, if he had not escaped with impunity, he would have been tried before that Commissioner; but it is not at all improbable that he would have escaped altogether.

3012. Lord *Stanley.*] Do you complain in this case that the law was violated, or do you complain that the law itself was not sufficient?—There was no law actually violated, because the law was not even appealed to; he was liable to be tried under a commission, but he was not tried under a commission; the Government punished him without any trial.

3013. Mr. *Mangles.*] Does not the Government dismiss its European civil servants without a trial, sometimes?—It might do so. I am merely contending for a moral right here; I am not saying that the law has been violated.

3014. You spoke of the difference between the two cases; does not the Government occasionally dismiss its European servants without a formal trial?—It does.

3015. Then there is no difference, is there?—There is a great difference. The Government does not pass penal sentences upon Europeans without a trial; this was a penal sentence, which deprived this man of his pension. I do not think any European would have endured it.

3016. Mr. *Hume.*] Is it your opinion, from what you have said, that the natives should be secured in the offices they hold during their good behaviour, and subject to dismissal only after due inquiry, agreeable to the Regulations?—I think that should be the case in every instance; but I think the form of an inquiry must be according to the Regulations.

3017. Sir

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3017. Sir *J. W. Hogg.*] The Committee understand you to be of opinion that none of the subordinate judicial officers ought to be dismissed by the Government unless they have been formally tried and convicted of peculation or corruption?—I have not expressed any such opinion, nor do I entertain such an opinion. If certain cases of malversation in various ways are brought to the notice of the Government, there being no Parliament to which the judges are subject in cases of malversation, the Government must act.

3018. When the Government wish to inform themselves as to the conduct of any judicial or other officer, either European or native, is not the mode pursued to have that inquiry conducted by a Commissioner, that Commissioner being a civil servant of standing and character?—It is, and I should not object in the smallest degree if the Government always adhered to that Regulation; but they dismiss a man, having the power of dismissing him under this Regulation, without appealing to any law at all.

3019. In the particular case which you allude to, was not the representation to the Government made by a gentleman who was a Commissioner so appointed, and who was of the high rank of a member of the Board of Revenue?—Yes.

3020. And the report of that Commissioner so appointed was unfavourable to the integrity of the transactions of this individual. Whether that report was right or wrong, such were its contents?—I never saw the report, and cannot tell what it was; but I believe it was under that Commissioner's report that the man was dismissed.

3021. Sir *T. H. Maddock.*] If a Commissioner of the same kind had passed a similar opinion as to the want of integrity of any civil servant, which report of the Commissioner had been sent to the home authorities, and that civil servant had been dismissed from the service by the home authorities, in that case, according to the rules of the Civil Service Annuity Fund, would not that civil servant have suffered in the same manner in which you describe this native gentleman to have suffered, inasmuch as he would have forfeited his pension?—That is so, certainly. He might have been made to suffer.

3022. Mr. *J. Elliot.*] Do you complain that this man was deprived of his pension contrary to law?—A penal sentence was passed upon him without any formal trial.

3023. Which you consider to be contrary to law?—I can hardly say that; the Government is despotic in India, and can do what it pleases; therefore I can hardly say that it was contrary to law.

3024. If it was not contrary law, the Government had the power to do it; and I suppose you would consider that they were the proper judges as to whether they would exercise that power or not?—They were the lawful judges, undoubtedly.

3025. Mr. *Mangles.*] Was not the Commissioner by whom that inquiry was conducted one of the ablest officers in the service?—That is a matter of opinion; it is not my opinion that he was so. I think he was an officer who had had a very small experience, and is now entrusted with duties which he has not the ability to perform.

3026. How long had he been in the service?—Probably 20 years.

3027. *Chairman.*] You said that one means for the improvement of the judicial system in Madras would be the transference of magisterial duties from European collectors to the native moonsiffs?—Yes.

3028. Is there any other improvement which you would suggest?—I think a European collector should not have the power over his own servants, which he at present has. A collector now may fine and imprison, and confiscate the property of one of his own servants to any amount; he is to a certain extent the judge in his own cause.

3029. What remedy have the servants in such cases?—None whatever; they may appeal to the Board of Revenue, but then an appeal to the Board of Revenue from proceedings of that nature is a very unsatisfactory proceeding. It would be far better that the native servants who are now subjected to that authority should be subjected to an impartial authority, such as the zillah court.

3030. They can only appeal to the Board of Revenue?—Only to the Board of Revenue.

3031. Cannot they appeal to any of the courts?—Not unless there has been something illegal on the part of the collector.

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3032. Would not the treatment to which you have alluded be considered illegal?—If one of the servants of the collector were accused of peculation, or of falsifying the accounts, the collector would have a power of trying him at once, and himself adjucating upon the case. In the case of misappropriation of the Government money, he has the power of fining a man to double the amount; the appeal is to the Board of Revenue.

3033. And not to any court of justice?—No, not unless there has been something illegal in the proceedings.

3034. Could a public servant in this country, a gauger or tidewaiter, who was dismissed by the Board of Customs, appeal to a court of justice against such dismissal?—I am not arguing upon the abuse of a thing; I am arguing upon the use of it. I have always thought it a great evil in this country that revenue servants should be dismissed without an opportunity of obtaining the opinion of some legal tribunal upon their case.

3035. Would not a public servant in this country, if dismissed for misconduct, forfeit his pension?—Probably he would. I should like to refer to the case of a man named Vencata Royaloo. He was suspected of purloining some documents from the Secretary's Office. The Government dismissed this man, as, of course, they had a right to do, but in dismissing him they proclaimed his dismissal in the official gazette, and declared him incapable of serving the Government again, in consequence of having committed particular offences, those offences being specified in the Fort St. George Gazette. The man, not knowing what means of redress to take, ordered a lawyer to commence a suit against the printer of the paper. The Government, instead of meeting this suit in the way in which they might have done by a plea in justification, pleaded to the jurisdiction of the court, and the matter fell to the ground, the Supreme Court not having jurisdiction in the case. In this instance the Government had the right to dismiss the man, of course, but they had no right to pass that sentence upon him. I knew the man while I was in India; and I have since seen a barrister of the Supreme Court, who described him to me only a week ago as a man of integrity, and of great ability. If the Government had been held in any general respect, that man would have been ruined irretrievably.

3036. Mr. *Mangles*.] Do you think the Government has a satisfaction in dismissing honest native servants from its employ?—I do not know. I merely argue upon facts; the Committee must draw its own inferences from them. All I know is, that cases go on; and the civil service is protected in a manner which is derogatory to the civil service itself, and derogatory to the Government itself.

3037. *Chairman*.] Will you state what further remedies you would apply to the defects which you state to exist in the judicial system?—The chief remedy is the employment of juries; I think if juries were employed, as they ought to be, our judicial system would proceed with greater security and also with greater satisfaction to the natives, who are, I think, at the present time wholly dissatisfied with it. One of the greatest improvements in the native civil service would be to render them independent and to pay them properly. This last observation applies still more strongly to the revenue service than to the judicial service. In the revenue service there can be no doubt that in nearly every district there is an immense amount of fraud and peculation. The tehsildars travel over the various districts of the country; they are men who have a very small pay, and they are in consequence an incubus on every village they go to, and their servants, without mentioning the bribery which sometimes takes place, live upon the villages wherever they go. The remedy for that evil is the same as was applied formerly to the European civil servants. Honesty I suppose is to be purchased from the natives in the same way as it is from the Europeans; if the former were paid in the same way as the latter, I have no doubt they would be equally honest.

3038. Hitherto the amendments which you have suggested have been the introduction of juries, the withdrawal of magisterial power from the collector and giving it to the native moonsiff, and also taking from the collector the power which he now has of punishing in certain cases; is there anything else which occurs to you to suggest?—As far as the European judicial service is concerned, I think there should be a restriction on the appointments made to those offices. Natives, who are very far superior often to Europeans, should not, I think,

I think, be supervised by them in the way they are now. There are men now on the bench at Madras who are not only unfit for the office which they hold, but who have been guilty of acts which would render them unfit to be entrusted with the life of a flea almost, instead of the life of a human being as they are now. There is now a man holding the office of sessions judge who returned a trial to the Sudder Adawlut when I was judge. The facts came before myself, and therefore I know them perfectly. The letter occupied one side and-a-half of a foolscap sheet of paper; he recommended one man to be hanged; another man to be transported; and a third he recommended should be set free, because there was not a "westage" of evidence against him, the word being spelt in that way. After some discussion in the Sudder, we called upon him to forward the original document; the original document was found in the handwriting of a native attached to his court, and in that document there was the very same mistake, the word being so spelt, "westage;" clearly proving that he had not even seen the document on which he recommended a man to be hanged. There is a case referred to at the end of Mr. Norton's book, in which I was concerned. In that case two judges of the Sudder had been passed over for several years as incompetent. At the time that the office of circuit judge was changed to that of sessions judge, those men were circuit judges, and they were allowed as sessions judges to retain the salary of circuit judges, being old judges. The Government of the day wished to effect the saving of the difference of salary, and therefore those two men were put in; they were obviously unfit, but yet they had the adjudication of this case. Though I had nothing to do with the matter, I heard that several men were going to be hanged, and, mistrusting the judgment of those men, I looked into the proceedings. I found that the men on whose evidence they were going to hang four people were the very people who had committed the murder. This led to a request on my part that the *ex officio* chief judge, a member of Council, should be called on to give his opinion on the case, which he did, and he agreed with me. It then became necessary to appoint a fifth judge, and the chief secretary was appointed. He also agreed with me, and the men's lives were saved.

3039. Were those facts judicially proved?—They were clearly proved; the facts are all on record.

3040. Mr. *J. Elliot.*] Do you give those instances, as showing the general character of the Madras judicial service?—I think there are a great many other cases equally bad. I hope they are exceptions to the general rule, rather than otherwise; but I know in this case the Government thought so little of the case that it treated it very lightly.

3041. In your opinion, has the judicial service of the Company at Madras deteriorated very much of late years?—I think it has, very much indeed; I think that it has been a refuge for the destitute in a very great many cases.

3042. From what time do you date that deterioration?—I think very much from the time of Sir Thomas Monro. I could mention several cases in which men have been put into the judicial department who were obviously fit for nothing else. There are cases, however, of another description. I can mention a case of a gentleman who held the office of judge of a provincial court with me; he was guilty of some errors of decision, and otherwise, and the Government thought it necessary to remove him from office; he was accordingly removed, and the case was referred to the Court of Directors. They declared the man incapable of holding any further office in the judicial department. This man was within a year appointed to one of the finest districts at Madras as collector and magistrate. The present Postmaster-general at Madras had been removed from his office; he was a judge, and his proceedings, many of them, came before me in appeal, and therefore I had an ample opportunity of seeing what they were. I do not however give merely the result of my own opinion; I am speaking of the judgments arrived at by his superior at the time. Grosser cases of cruelty and oppression I never saw in the whole course of my life.

3043. *Chairman.*] He was removed from his office you say?—Yes, and declared unfit to hold any judicial appointment; but he was appointed as a reward afterwards, I suppose, to one of the best offices at Madras, namely, that of Postmaster-general.

3044. Might not he be competent for that post, though he was not qualified for the office of judge?—He might have been qualified for that office, but it is

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not usual to promote men to a high office in consequence of their having committed offences in a lower one.

3045. Sir *R. H. Inglis.*] When you said that the deterioration in the judicial service at Madras dated from the time of Sir Thomas Monro, did you mean that the Committee should exclude the time of Sir Thomas Monro himself?—No, I think it began with him; he was the first man who established the revenue department as a superior department.

3046. Mr. *Mangles.*] The Government, by removing this judge of whom you spoke, did all that lay in their power to improve the administration, did not they?—I do not find fault with the Government for that; they did all they could; they removed him from the possibility of committing further errors.

3047. Mr. *V. Smith.*] Was the Government who removed him the same Government that gave him the office of Postmaster-general?—No.

3048. Mr. *Mangles.*] In the case in which the word "westage" occurred, did the Sudder Court report the conduct of the judge to the Government?—Yes.

3049. How did the Government act?—They treated it very lightly; they reprimanded him; that was all. There was another case of a gentleman who holds the office of sessions judge now. He is a gentleman who is famed for forgetting the truth; he wrote on one instance a most deliberate falsehood to the Sudder Adawlut. The Government merely reprimanded him, and treated it almost as a venial offence; he happened to belong to a party. When the native service see such extraordinary favouritism towards another department of the public service, it cannot be otherwise than dissatisfied.

3050. Mr. *V. Smith.*] Do you sufficiently recollect the nature of the reprimand to say whether it was for falsehood?—The Government rather softened the expression; but it was as plain as the sun at noonday that the Government saw that a falsehood had been committed. This man had written more than one falsehood to the Government before; he is a man of bad character.

3051. Sir *J. W. Hogg.*] Without saying who was right or who was wrong, is not it the fact that, while you were a judge of the Sudder, you and the Government of the day took very different views upon most matters relating to public duty and the conduct of public servants?—The question embraces the whole time I was a Sudder judge, whereas my quarrel with the Government only arose at the latter part of my service.

3052. Mr. *Mangles.*] How long were you a Sudder judge?—I had been a Sudder judge about five years when the quarrel between the Government and myself arose; I was a Sudder judge about seven or eight months afterwards. I had no quarrel with the Government before that. As to my quarrel with the Government, I will state in a very few words what the quarrel was. The Government sent an order to the Sudder Court, which assailed its independence. I was the first who said that the order must be obeyed, but I at the same time said that it was an improper order, and I wrote to Government accordingly, and told them that I would not allow the independence of the Sudder Court to be assailed. That led to a long continued correspondence; this part of the transaction did not lead to the quarrel, but the Government then entered into a clandestine correspondence (all of which is on record, as the Honourable Baronet must perfectly well know) with the first judge, who happened to be one of the leaders of the Missionary party. The object of the Government in sending that order to the Sudder Court was to induce the Sudder Court to pass unjust decisions in cases in which Christians and heathens, as they called them, were concerned.

Lunæ, 18° *die Aprilis*, 1853.

MEMBERS PRESENT.

Sir R. H. Inglis.
Mr. Hardinge.
Mr. Mangles.
Sir J. W. Hogg.
Mr. J. Elliot.
Mr. Baillie.
Mr. Vernon Smith.
Lord Stanley.
Viscount Jocelyn.
Sir Charles Wood.
Sir George Grey.
Mr. Labouchere.
Mr. Spooner.
Mr. R. H. Clive.
Sir T. H. Maddock.
Mr. J. Fitzgerald.
Mr. Hume.
Mr. Hildyard.
Mr. Cobden.
Mr. Herries.
Mr. Milner Gibson.
Mr. Macaulay.
Mr. Newdegate.

THOMAS BARING, Esq., IN THE CHAIR.

Malcolm Lewin, Esq., called in: and further Examined:

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3053. *Chairman*.] HAVE you anything in explanation of your former evidence to state to the Committee?—I have an explanation to give respecting the sheristadar of Ghuntoor. I was not in perfect recollection whether this man had undergone a formal trial or whether he had been dismissed from the service without one; I have since referred to authorities and find he was not formally tried; the reason of his not being formally tried was simply this, that they had no evidence to prove a case against him. In consequence of the acting collector of the district not being able to prove a case against him, a report was made to the Commissioner, and the Commissioner in consequence made a long report to the Madras Government, in which he laid before the Government several grave crimes and misdemeanors; at least they were called so, though if the Committee will allow me to show what they were, they will see that they were not sufficient for any court of law to proceed upon. In fact I may say they would have been scouted from any court in the world where justice had the slightest influence. I left it uncertain on the last day whether this man had undergone a formal trial or not; I now state that he had not; I mentioned the case in elucidation of what I stated, that in the conduct of the Government towards Europeans in comparison with their conduct towards natives, there was the greatest possible partiality. I elucidated this by several instances. If the Committee will allow me I will give them two more instances; I will state the case of a gentleman who left India three or four years ago: he happened at that time to be in the Sudder Adawlut with me as a judge, he was removed from the office which he was holding; he held an acting appointment in it, but he was not allowed to be appointed permanently to it, in consequence of certain acts which he had committed while in office. At the time he left India there were certain charges against him affecting his character; in consequence he resigned the service; I will not say that it was in consequence of those he resigned the service, but he did resign just at the time the charges were preferred against him; the Government allowed him to leave the service and to take his pension. They stated at the same time that as he was about to leave the service they would not go any further into the charges, but they would let him leave the service under that cloud, if I may so call it, and they allowed him to take his pension. There is another case of a gentleman, who was also a judge with me in the Sudder Adawlut; this gentleman I might myself have kept in the Sudder if I had pleased. Lord Tweeddale asked me indirectly my opinion about him, but I refused to give any opinion about him; I told his Lordship that it was not for me to give my opinion about any one under such circumstances; in consequence of that evasive answer he was not put into

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the Sudder Adawlut; in fact he was not fit for it. This gentleman passed afterwards through the Insolvent Court as a fraudulent debtor; he was remanded for six months to gaol, and remained in gaol for six months; at the same time he was accused, and it was proved, that in violation of one of the Acts of Parliament, he had had pecuniary dealings with a native prince of the country. The Court of Directors, in consequence of this, declared that he should never be permitted to hold any employment in the Company's service again, as he was unfit for it; but they did, at the same time, in consequence of his having certain family interest, and being able to besiege the court in Leadenhall-street, allow him to retire on his pension. I maintain, and I do not think any gentleman who knows anything of the civil service, and the practice of the Government towards it, will deny it, that if that man had been a native, he would have been turned adrift with the loss of his pension and everything else.

3054. Allowing, for the sake of argument, such defects to exist in the qualifications of the civil servants who are thus appointed to judicial situations, what remedy would you suggest?—I believe the question refers to the judicial service. I think the services, whether revenue or judicial, in order to make those engaged in them conduct themselves as they ought to do, must be made independent. Nothing can be more injurious than to have the judicial service solely dependent upon the will of a Governor, who at any time may overthrow it, and trump up charges against it, and who having placed himself in the wrong (as the Marquis of Tweeddale did in my case, for my proceedings in that case were every one of them confirmed, and every one of the Marquis of Tweeddale's decisions reversed), may then invent other excuses for turning out the judges; for instance, he turned me out, because I would not obey his orders, which orders were illegal, and which orders were reversed by the Court in Leadenhall-street, as the Honourable Baronet perfectly well knows, because they came before him, and they confirmed all my proceedings. It was stated that I had lost my temper; I did not lose my temper till the Marquis of Tweeddale had insulted the Court for having placed the Government in the wrong, as it had done, upon which it became necessary to invent an excuse to turn me out. The same thing may be said of the Government at home; the Government must be independent, or else they cannot possibly administer the affairs of India to advantage. If men are sent out as Governors there who are perfectly unfit for the office, and if the Court in Leadenhall-street are afraid to administer justice between them and their servants, it is impossible that the service can be respectable or be respected. The consequence is that, speaking of the Sudder Adawlut, I maintain that the Sudder Adawlut is neither respected in the service, nor is it often respectable. The case of the Sudder Adawlut, I think, is a very scandalous case; and as the Honourable Baronet, the last time I appeared before the Committee, threw a doubt upon my evidence, I will simply say, in answer to that doubt, that the Honourable Baronet, who was chairman of the Court at the time, is much more deeply interested in suppressing the facts of the case than I am in exposing them. I could show to the satisfaction, I am certain, of any court of justice, that the Honourable Baronet must have lent himself to proceedings, on the part of the Marquis of Tweeddale, which would not be suffered by a court of justice. I might also go so far as to say that I do not think any man of honour would have passed over the proceedings of the Marquis of Tweeddale. One of the first things the Marquis of Tweeddale did, was to enter into a clandestine correspondence with the first judge of the court. I beg to say that I have all the documents necessary to show it. The first thing he did was to send an order to the court, which I have here. He called upon the Court to give an account of their judgments in a case in which Christians were prosecutors, and heathens the accused. The Court of Directors in Leadenhall-street very properly condemned the Marquis of Tweeddale for the use of the word "heathens," and cancelled the order. But though they cancelled the order, and though my proceedings were confirmed, and all the proceedings of the Madras government reversed, yet because I had lost my temper, although the Marquis of Tweeddale had been guilty of the grossest acts of impropriety, as all his proceedings showed, they passed no judgment whatever such as they ought to have passed upon him; he ought to have been turned out. They went further than this: the first judge of the court, who had been in collusion with the Marquis of Tweeddale, was piously inclined towards the Christians, and impiously inclined towards

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towards the heathens; but as soon as the Marquis of Tweeddale found that he was in the wrong, and that the Court of Directors had detected his falsehood, in saying that he had not been in secret correspondence with him, the Marquis of Tweeddale turned this judge out. Having made use of him as long as it suited his purpose, he then turned him out. The Marquis of Tweeddale, I must observe, wrote to the Court of Directors, and stated that the accusation that he had corresponded clandestinely with the first judge of the court, had no foundation whatever, but he was not aware at the time he wrote this, that a copy of the despatch which he sent to the Court of Directors was in my hands, and that an answer contradicting that statement was carried home with that very despatch; and the Court of Directors, in consequence, reproved him for that. Now it is quite evident that the Court in Leadenhall-street, of course, could turn me out, or do what they liked with impunity; but they did not dare to touch a hair of the head of the Marquis of Tweeddale, though I will undertake to say that in any court of justice, or among gentlemen, his conduct would be considered disgraceful, and tainted with the grossest falsehood. Reverting to the question which I was asked, I think the first remedy is to make the courts independent of Government: they cannot be entirely so, but I think they should be placed in such a situation of independence that they should not be exposed to the supposition of being obliged to do every thing which the Government requires of them. If the judges in correspondence with the Government differ from them they should not be liable to be turned out. I would not allow any Governor to turn out a judge of the Sudder Adawlut without a commission upon his conduct, and I would not allow that commission to be composed entirely of men in the service. If there were a supreme court independent of the Sudder Adawlut, I would allow some of the judges upon it to be upon the commission, but certainly allowing a commission upon the conduct of a judge of the Sudder Adawlut to include men lower than him in rank, and to be under the immediate orders of the Government, is a perfect farce. There is no independence at the present time in our courts of justice in India.

3055. Is there any other alteration which you would wish to suggest in the judicial system adopted in India?—For carrying out the justice of the country, I would admit natives; I would associate a native with a European in every case; I would pass an order, which should be carried into practice, that the natives of the country should be eligible to any situation, however high, according to their merit. I would allow the same practice to prevail in India which is in accordance with the practice under our own constitution. I would also allow the Government of India to select for all offices, and I would abolish the civil service; because, if the civil service remains in the hands of the East India Company, I am perfectly certain that the best men will not be selected for office, and I think in practice it has been found that the best men are not selected for office. I consider, as the Government of India is responsible for its good Government, the power of selecting should be in their hands; and I am perfectly certain that, if they are not immediately able to find persons fit for situations, they might in a very short time produce a competition for employments in India, which would enable them to fill the highest and the lowest offices with advantage to the state.

3056. Mr. *Macaulay*.] What security do you propose to take that every Governor who goes out will not be accompanied by a number of his relations and friends to whom he will immediately give all the offices?—I think every person must be under certain checks, whether a Governor or anybody else. I cannot exactly say in what way the Governor-general should be checked, but there is a Parliament at home, and there is a Privy Council at home, and if there were a ready means of appeal in this country, which there is not at the present time, for I consider the natives of India are not heard by way of appeal, and cannot get a hearing, but if there were a ready means of being heard, no difficulty could possibly arise. People in this country suppose that there are no grievances in India, because the grievances of India do not reach this country, but the fact is, that there are just as many causes of complaint there as there are in our other colonies. People are apt to argue, that because there are not the same troubles and annoyances arising out of our possessions in India, as out of our other colonies, there is no ground of complaint. The fact is, there is no public in India; our courts have no reporters, and have no barristers of sufficient courage to see that justice is done by the judges; the consequence is, that

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that a mass of injustice prevails there which, if a commission were sent from this country to India, it would discover what would perfectly astonish the people of this country. So completely is that the case, that I am satisfied the people of England, if they knew what goes on in India, would not allow India to be in the hands of the East India Company.

3057. What check would you propose, in such a state of society, which should prevent a Governor from appointing his own friends and relations to all the offices in his gift?—Every Governor-general is supposed to be a man of some conscience and some morality. The question rather assumes, that I am in possession of and able to provide those checks. I think when Parliament appoint a Governor-general they place him under certain checks, and it is for them to see that those checks are carried out.

3058. Are not your complaints directed against the great misconduct of a Governor at Madras?—Yes.

3059. Supposing Lord Tweeddale, against whom you bring those accusations, had possessed boundless power of selecting any person whatever that he pleased to fill any office, however high or lucrative, which is now in the gift of the Company, do you conceive that that would have been an improvement in the Government of India?—My answer did not assume that there was a state of things at present, under which you could obtain men capable of filling all those high offices. I say that a state of things will arise, and a competition for employment will arise, which will enable you to find persons competent to fill al those offices.

3060. If the Governors in India are to be at liberty to appoint any person whatever without any check, is there any reason to believe that you can provide a check which will prevent jobbing, or the distribution of patronage among their own relations?—I really cannot speak as to the morality of public men; we no doubt see a great deal of immorality and a great deal of jobbing among them; that is evident to every man who does not shut his eyes to it.

3061. Can you show the Committee any reason for believing that the abolition of the civil service would produce a purer distribution of patronage in India?—I do not know how to answer the question, as to the introduction of a purer system of distributing patronage. In England the highest offices are filled without the necessity of men going through Haileybury or otherwise; men are found fit for them, and they are put into them at once; and I am satisfied that the same would arise in India. It would be for the benefit of India that Europeans should be induced to go out there. Capital would be carried out, and Europeans would be scattered over the country, who would prove of the greatest possible benefit to the country.

3062. Is it the fact that among many complaints which have been made of the Indian Government, the charge of nepotism has ever been much brought against those who administer the Government in India?—I have never heard the charge particularly brought.

3063. Are not you aware that it has been brought to a great extent against the distribution of patronage in England, through all orders and classes?—The Scripture says he who neglects kith and kin is worse than an infidel; I do not suppose men in India are better or worse than they are here.

3064. Is not the system one which, by confining the Governor-general in his choice of agents to a select service, makes it almost impossible for him, whatever his inclinations may be, to indulge in nepotism?—If you engage to send out a fit civil service to the Governor-general, of course that would be the best thing; but if you do not send out a fit civil service, and if you send out unfit men, and force him to the employment of them whether they are fit or unfit, I think the civil service cannot be defended.

3065. In your opinion, is not the present system, whatever its other defects may be, a great security against nepotism on the part of the Governors of India?—Certainly: if you fill situations by other means, which might be filled under the system of nepotism, it is a check to it; it is a physical check, not a moral check.

3066. Mr. *Hardinge.*] You state that the natives cannot obtain a hearing for their appeals; did you think it your duty to take the opportunity when in India, before you were dismissed, and while you were on the bench, to write to the Government and expose the evils of the system?—No; I did not think so; I have

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I have written in a great many newspapers for the last 20 years; there is scarcely a grievance that I have not exposed in one way or other.

3067. Sir *R. H. Inglis.*] But not to your immediate superiors, who had the power of correcting such abuses?—If you will state what abuses you allude to, I will give a categorical answer.

3068. Your statement was general, that you had exposed abuses frequently by letters in the public newspapers; the Committee would be glad to know whether you represented such abuses to the authorities competent to redress them, or whether you confined yourself to writing letters in the public newspapers?—May I be informed what is meant by "authorities competent to redress them"?

3069. I presume you cannot have been a judge in India without being aware that, at all events, you had one superior there, namely, the Governor in Council; you cannot have been a judge so long in India without being aware that there was an appeal from any decision of yourself or any other judge to the Queen in Council; have you ever represented any grievance which you may have observed to your immediate superior, the Governor in Council of your own presidency, or have you taken means that such grievance should be brought by appeal before the competent authority in England, namely, the Queen in Council?—I have been a collector for some years, and I have been a judge for some years; I have been in the habit of writing annual reports on the assessments, and I have been in the habit of writing reports of my circuit proceedings. On those occasions I have represented such circumstances as I thought necessary to represent to the Government; but I must observe this, that every civil servant of the Company is not supposed to be a critic of the proceedings of the Government, nor am I aware that a civil servant has the power, or that he would be in his place, if he were to bring to light those circumstances. We have a Government at home and one in India, and they call for reports, and are supposed to be persons whose duty it is to provide for the government of the country in all its departments.

3070. Did you or did you not think it your duty to act the part of a critic in reference to certain transactions by addressing communications on the subject to the public press?—Wherever I have thought I could justly bring a fact to the notice of the Government I have done so.

3071. You have referred generally to your having addressed communications to the different public papers on the subject of certain grievances. The question addressed to you was a simple one. Have you or have you not felt it to be your duty equally to make representations of such grievances to your immediate superiors?—I have felt it my duty and have acted upon that sense of duty, to represent such grievances as I have had occasion to represent. I have seized the opportunity of representing them according to the rules and system of the service.

3072. Mr. *Hardinge.*] Did you correspond anonymously in the newspapers, or did you write letters with your signature to them?—I frequently wrote editorials in the newspapers, and I also wrote letters.

3073. You would not take upon yourself the responsibility of writing anything under your own signature, bringing any charges against the Government, but you did it by certain anonymous letters and editorial articles?—I am informed that Ministers as well as others write themselves, and employ others to write in the newspapers. I have done the same thing that they have done, but not worse than that.

3074. Sir *T. H. Maddock.*] Was not that practice, when you were in India, prohibited by the orders of the Court of Directors?—I think it was prohibited, and I rather think that in that respect I have disobeyed the orders of the Court of Directors in a great many instances.

3075. Mr. *Spooner.*] You have stated that you have made remonstrances to your superiors of such a nature as you thought you were called on to make; will you state what were the remonstrances, to whom they were made, and when they were made?—I have written a great many circuit reports, and a great many reports on the annual assessments. I cannot call to mind the contents of any one of them.

3076. Can you call to mind any one grievance that you have ever officially pointed out to your superiors?—I cannot at this moment.

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3077. Sir *R. H. Inglis.*] You have been content with making them generally in the newspapers without bringing them formally to the notice of those who could redress them ?—I will not say that I have been contented with doing so. I say I have not been content with representing anything except in a regular manner.

3078. Mr. *Mangles.*] You said that the Court of Directors were afraid to administer justice between the Marquis of Tweeddale, as Governor, and the Sudder Court, with whom he differed. What is your ground for thinking they were afraid to do so ?—I think the Marquis of Tweeddale's proceedings, on the showing of the Court, were proceedings which were not those of a man of honour and a gentleman ; the Court's own proceedings show that.

3079. Why do you think the Court were afraid to administer justice ?—Because they did not do it, and I could infer no other motive but that the Marquis of Tweeddale was a brother-in-law of Lord Broughton and a near relation to the Duke of Wellington.

3080. What were the Court of Directors afraid of ?—They might have been afraid in the same way that they were in the case of Sir Charles Napier, when they refused to send him out as Commander-in-Chief; Lord John Russell went down to the House of Commons and threatened them ; they immediately gave way, and, against their own opinion, sent him out.

3081. Sir *R. H. Inglis.*] On what authority do you make to the Committee the statement which has been taken down in your last answer, that Lord John Russell went down to the House of Commons and threatened the Court of Directors, and that thereupon the Court of Directors sent out Sir Charles Napier against their own opinions ?—It was notorious that Sir Charles Napier had been proposed ; it was notorious also at the India House that he had been rejected by the Court of Directors ; it was notorious to every one that Lord John Russell went down to the House of Commons ; I cannot exactly say what he said now, I have not perfectly in my recollection what he said, but he proposed to take some measures which would force Sir Charles Napier upon them ; they instantly gave way. I must beg to observe that I brought this before the Court of Proprietors some time ago, and I believe there is no doubt of the fact.

3082. Mr. *Macaulay.*] The fear felt by the Court, you think, in this case was a fear of the House of Commons ?—The House of Commons, I take for granted, are the Government in all these matters ; Lord John Russell was Prime Minister, and I suppose if he had proposed at that time to bring in a Bill to overset the Court of Directors he would have had no difficulty in doing it.

3083. Sir *R. H. Inglis.*] Do you allude to a public or a private statement of Lord John Russell ?—A public one.

3084. One which will be found in the debates ?—Yes.

3085. Mr. *Macaulay.*] Is not it intended that all bodies who have any authority in the Government of this country should stand in awe of the House of Commons, and should feel themselves under responsibility to Parliament ?—I think it is not intended that any man should do what is contrary to his conscience. No doubt if the Court of Directors thought Sir Charles Napier was unfit to take the reins as Commander-in-Chief it was their duty to abide by their opinion, and take the consequences. I did that in the case of the Marquis of Tweeddale ; he sent an order to the court which was derogatory to him and to the court ; the order was objected to ; we appealed against it, and we got it cancelled.

3086. Your charge against the Court of Directors is that they will not do justice from fear of the Governor, and the powerful connexions of the Governor in England ?—That is exactly what I say.

3087. Then what remedy in the way of improving the administration of justice do you contemplate from removing the Court of Directors, and leaving the Governors and their powerful connexions in England without their control ?—You cannot attain perfection anywhere, but if sufficient care is taken in the selection of the persons who are sent out to India, all will be done that can be done.

3088. Would not that be the case if the Directors remained, equal care being taken in the selection of the persons they sent out ?—I do not think it would be the case to the same extent as if the power were in the hands of the Government.

3089. Your

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3089. Your charge against the Directors is, that they have acted unjustly under the fear of the Government?—The fact is that the Governors who are sent out, are often unfit men; they are nominated by the Court of Directors; the responsibility is with the Court of Directors.

3090. Are not they practically nominated by the Crown?—I really cannot tell.

3091. Is it not your belief that the nomination of the Marquis of Tweeddale proceeded from the Board of Control?—Yes, the nomination came from that Board; but I believe the Court might have prevented his being appointed.

3092. Must not they in any case have taken some person recommended to them by the Crown?—I am not aware of that.

3093. Sir *R. H. Inglis.*] Do you or do you not believe that those nominations are made with the consent of the Government of the day, and that without their consent such nominations have rarely, if ever, been successful?—I cannot answer that question with any certainty, but it does not alter what I said before, that if a bad person is proposed to them, it is their duty to reject him.

3094. Do you know any instance in history within the last 50 years, in which the Court of Directors have rejected a person in whom they had not confidence?—No, I do not know an instance of it.

3095. With respect to the recall of a Governor-general, would you consider that that was an instance of cowardice or boldness?—I am not sufficiently acquainted with all the circumstances of the case to give anything more than an opinion, but my own opinion is that Lord Ellenborough was recalled from private motives entirely. I believe he was a very independent man, and if he had remained in India I have not the smallest doubt he would have conferred the greatest benefits on India. He disagreed with the Court of Directors; he was insulting to them, I believe; and I understand they said they could not get on with him because of his insubordination. There were other circumstances, I believe, but I am not perfectly certain of all the facts; I only know that one of the best Governors who ever went to India, was recalled simply from a personal quarrel with the Court; I believe that to be the fact; I will not say that it was so.

3096. Mr. *Macaulay.*] You do not conceive that in that instance the Court of Directors showed fear, either of the Governor-general, or of the very powerful persons with whom he was connected in England?—Everyone knows that private pique is a more powerful motive than any other with some men.

3097. Mr. *V. Smith.*] What is your opinion as to the present mixed power of appointment and recall in the Court of Directors and the Crown?—I think that the Court of Directors should not have the power they now have.

3098. You think it should vest entirely in the Crown?—Yes.

3099. Both the power of appointment and of recall?—Yes.

3100. In the course of your examination on a previous day, in answer to the last question put to you, you said that "the object of the Governor in sending the order to the Sudder Court, was to induce that court to pass unjust decisions, in cases in which Christians and heathens, as he called them, were concerned." Can you elucidate to this Committee, in any manner or by any facts, why you state that that was the object of the Governor, or did you make that statement only from your general impression of the conduct of the Governor?—The order which I alluded to is this: "Extract from the Minutes of Consultation, under date the 19th May 1846. He resolves at the same time, with the view of placing on the records of Government authentic information on the subject matter of these petitions" (I may observe that there were no petitions; this was entirely a fiction) "to direct the Court of Foujdaree Adawlut to lay before the Government copies of the calendars, and of the evidence taken in the Session Court, with the sentences of that court, in the several recent cases which have come before the Foujdaree Adawlut from the province of Tinnevelly, in which native Christians have been prosecutors and heathens the accused. The court will also be pleased to report, in each case, by what judge or judges of their court the final sentence or order was passed, together with the sentence itself, and the grounds thereof; also, the name of the head of police, and of the officers in the magistrate's department who investigated the cases in the first instance, and forwarded them to the Court of the Principal Sudder Amin." This is not the original order, it is a copy which was made in the office by a clerk in the office.

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3101. Will you point out in that order the words in which the Governor endeavours to induce the court to pass unjust decisions?—I cannot do it by a word. The order is an unusual one; no such order was ever before addressed to the Sudder Court, nor have I ever heard of an order in which the parties to a suit are described as Christians and heathens. I think that the term "heathen," here, which is an opprobrious term, as every one knows, is quite sufficient to indicate the animus of the Governor; but if that is not sufficient to indicate the animus of the Governor, I shall be ready to show other papers, which I think will prove it completely.

3102. Your opinion to that effect is derived from the extraordinary nature of the order, and from your opinion of the ordinary practice of the Government?—Yes.

3103. Viscount *Jocelyn*.] What ground have you for stating that there were no such petitions?—All the petitions which were before the Government have been in my hands since, and I have seen all the orders which were passed upon them in the handwriting of the different members of Government, and those petitions I know were petitions which were presented not against the Sudder Court's proceedings, but against the magistrate's proceedings who was the leader of the Missionary party, and whose proceedings were condemned by the Sudder Adawlut as being perfectly illegal and improper.

3104. You admit then that there were petitions?—There were petitions upon another subject; it was a subject unconnected with this almost. There were petitions against the illegal proceedings of the magistrate of Tinnevelly who was a brother of the chief secretary, and they were both of them leaders of the Missionary party. Those petitions had all been disposed of, and I believe I have copies of them in my possession at this moment. It clearly apppears that they had all been disposed of.

3105. It is stated "he resolves at the same time, with the view of placing on the records of Government authentic information on the subject matter of these petitions, to direct the Court of Foujdaree Adawlut to lay before the Government copies of the calendars, and of the evidence taken in the Session Court, with the sentences of that court;" what were those petitions?—The inference from that order was, that there had been petitions against the Sudder Adawlut. There had been none. The only petitions which had been presented to the Government were petitions which had been presented against the magistrate's proceedings; those petitions had been disposed of.

3106. Mr. *Macaulay*.] There were petitions before the Government relating to some disputes which had arisen respecting dealings between Christians and heathens?—I do not mean to say that this was an entire fabrication, and that there was no ground for saying that there had been petitions, because there had been petitions. Those petitions had been presented to the Government against, not the Sudder Adawlut, nor with any reference to that court, but against the magistrate of Tinnevelly.

3107. The words of the Governor are merely that he calls for this information "with the view of placing on the records of Government authentic information on the subject matter of these petitions;" is there anything in those words which implied that the petitions contained any charge against the Court of Foujdaree Adawlut?—If there had been any petitions at that time undisposed of, I should think there were grounds for inserting that, but I know that it was a mere pretence. I have had in my possession all the petitions which were presented at that time, and I am aware that the case had been wholly disposed of.

3108. Was not it competent to the Government, if they wished to have authentic information on so important a subject as the relation between persons of different religions under their government, to call for any information which would tend to illustrate it?—Undoubtedly; but it was not competent to the Government to stigmatise persons who came to that court for redress as heathens.

3109. Then you admit that there were petitions which might warrant the Government in calling for authentic information with regard to disputes between persons of different religions?—There had been petitions, but I will not allow that there were petitions then, because they had been disposed of; a petition implies a thing which is in operation, not which is past.

3110. Is not it permitted to any subject of our Government in India to petition,

petition, in any manner, the Governor-general in Council?—Of course it is; I suppose so at least.

3111. May not a government which wishes to obtain information with regard to the subject-matter of those petitions, call for any information from any official quarter?—Certainly; but it is a remarkable fact that, in this instance, no information was called for till some of the cases had been disposed of; as soon as the cases had been so disposed of, then the information was called for, but not till then.

3112. You stated that the Government sent this order for the purpose of inducing the Court of Foujdaree Adawlut to do injustice?—Undoubtedly I stated that.

3113. From what words do you infer that?—I do not infer it from the order alone; I infer it from other proceedings. Immediately on the order coming, the first judge of the Sudder Adawlut, Mr. Waters, who was one of the pious party who was assisting the Christians against the heathens, immediately took the cases which came before the Sudder into his hands, and he kept them there, and against the law wished to pass some heavy sentences of fine and imprisonment; he kept them in his hands for seven months. Lord Tweeddale was appealed to; the court said, "This first judge has set our authority at nought." Two letters were addressed to the Governor; the Governor took no notice of those letters, but instead of that entered into a clandestine correspondence with this man; upon this clandestine correspondence the Government wrote to the Sudder Adawlut and reprimanded them, upon which occasion, I wrote a minute to the Government, which I will read with the permission of the Committee.

3114. I observe that you yourself in your last answer naturally used the word "heathens"?—I have expressly on several former occasions objected to the use of the word "heathen."

3115. You yourself used it in your last answer?—Merely quoting it.

3116. Was this despatch a despatch which was likely in any case to have been seen by any person whose feelings the word "heathen" in English could have offended?—I think that that is a despatch which would not be received by any court in England.

3117. Is it a despatch which was likely to be seen by any person whose feelings would have been wounded by the word, "heathen"?—It would have circulated immediately through the country.

3118. With the word, "heathen" in it?—Yes.

3119. Was the word, "heathen" one which would be understood by the body of Pagan natives of India, as being a word of reflection upon them?—Not by the lowest classes, but it was understood by a sufficient number who would impart that information to the lowest classes.

3120. Are despatches of that sort generally published among the population?—No; I do not know that they are.

3121. What number of natives were likely to read this despatch in English?—I think it is probable that the despatch would have been seen by 40 or 50 in the Sudder Adawlut.

3122. Natives?—Natives, and half-castes.

3123. Half-castes are not heathens, generally, are they?—No.

3124. By what number of persons, who would have understood that word as a reflection, is it probable that this despatch would ever have been seen?—That is a very large and comprehensive question, which I can scarcely answer; I am quite certain that it would have been circulated among them as an intended insult, even whether it was intended or not. If it was not intended as an insult, all I know is, that the word "heathen" conveys an insult.

3125. What word would you have used?—Hindoos.

3126. A Hindoo may be a Christian?—He may.

3127. The question was between a converted Hindoo, and a Hindoo adhering still to the religion of his ancestors; would you say between a Christian and a Hindoo, when in fact both were Hindoos?—I only know that this word had never been used before, and I should certainly not have used the word myself.

3128. Mr. *V. Smith.*] This was the first time you had ever seen that word used?—It is the first time it has ever been used by Government; it was once used by a gentleman in Court, Mr. Cassamajor; I objected to the use of it then, and recorded a minute against it.

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3129. Mr. *Macaulay.*] What word would you have proposed to use :—The word which hitherto had been in use was that of Hindoos. A Hindoo Christian is a Christian convert from Hindooism ; a Hindoo is a person of the Hindoo faith.

3130. But, supposing the Christian was also a Hindoo, how could you say that a Christian was on one side and a Hindoo was on the other ?—If it were merely an abstract logical disquisition I should agree with the Honourable Member, but I view it as a question which arises out of the animus of the parties, and therefore I entirely disagree with him. I say, in that particular instance, from particular circumstances, an animus is indicated on the part of the Christians against the Hindoos, and we must take into consideration that the judge, Mr. Waters, was in clandestine correspondence with the Government, and that he desired, at the same time, to inflict stripes and imprisonment and transportation upon men who were not liable to such punishment, and whom I knew to be not liable to it. The judges who were appointed after me concurred in my views, and released all the men ; at least, they punished them so lightly that there was not a single case that came to the Sudder Adawlut, which was not within the jurisdiction of the lower courts.

3131. Sir *R. H. Inglis.*] Without entering into the latter part of your answer, will you be pleased to state to the Committee whether the matter in issue were or were not a question of inheritance forfeited by conversion ?—I never heard that it had the slightest to do with it.

3132. Was it a mere question of assault between those individuals, without reference to their religion ?—It was a religious question entirely ; missionaries were endeavouring to convert the Hindoos to Christianity ; disputes arose out of this, and the faults were probably as much on one side as the other. The missionaries who took part with the Christians stirred them up to make outrageous complaints against the Hindoos, and they resorted to the very worst crimes in order to prove them ; in proof of which, in one of those Christian cases which was sent up to the Sudder Adawlut, the sessions judge, before it reached us, had sentenced three of the witnesses to punishment for perjury.

3133. Was the sentence upon such Christian witnesses reversed or confirmed ?—It did not come before the Sudder Adawlut on appeal in any way ; it was not referable to the Sudder Adawlut ; the sessions judge has the power of sentencing for perjury.

3134. Then is this one of those cases in which the decision was reversed ?—Yes, it is one of those cases.

3135. What was the punishment inflicted by the Superior Court in the case you have mentioned ?—I cannot remember what was the precise punishment, but I know that in no case was the punishment carried beyond three years' imprisonment.

3136. Mr. *Hildyard.*] You stated that some of your communications to the newspapers were in the form of letters, and that some were editorial observations. Are the Committee to understand that you were interested, as the editor of any newspaper ?—Certainly not.

3137. What do you mean by editorial articles ?—Leading articles in a newspaper.

3138. Written by yourself, as an amateur ?—As an amateur.

3139. Were you at that time acting as a judge ?—As far as I recollect, while I was a judge, I did not write on any matter connected with the court.

3140. Did you write such articles at all while you were a judge ?—I cannot say.

3141. Would your doing so have been in direct contravention of the regulations of the Company ?—It would depend entirely upon the nature of the subject.

3142. Did you write any political article ?—If it was an inoffensive article, there would have been no objection to my writing in that way, whether I was a judge or not.

3143. Did you write any political article during the time you were acting as a judge ?—I think very likely ; I have written a great many. I cannot recollect whether I was judge or not. I do not wish to evade the question, because I dare say I have done so.

3144. You have spoken three or four times of clandestine correspondence ; what are the Committee to understand by that word, applied as you have applied it ?—The first judge, who wished to punish the heathens, as I before stated, and

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and who knew that the Government sided with him, immediately wrote secret letters to the Government. The Government had no right to act upon those letters; no court in India has a power legally of passing judgment in any case unless the papers and proceedings are fully before it. Those secret communications which I have here were not only acted on, but they were made the basis of a reproof to the court.

3145. Mr. *Elliot.*] Were those secret letters which you speak of written to the Governor or to the Government?—To the Government.

3146. In the secret department?—No. The first judge had no right to write any letters whatever; it was contrary to the rules of the court; he might have sent letters through the court, but he had no business to write privately.

3147. Having written those letters, would they be in the public department or in the judicial department, or would they be in the secret department?—I do not know what a Government, who acts irregularly in one instance, would do in another.

3148. If they were in the judicial department they would not be secret?—I cannot tell what the Government might have done. I cannot answer for anything that Lord Tweeddale would do.

3149. You have stated that they were secret letters; how do you know that they were secret letters?—Lord Tweeddale, when I taxed him with carrying on a secret correspondence, said, my statement had no foundation whatever. Meanwhile other representations reached the Court of Directors, to which their reply said, that Lord Tweeddale "should have sent back the secret accusations."

3150. Mr. *Hume.*] Are you referring to a despatch of the Court of Directors?—Yes.

3151. Do you mean that the Court of Directors declared that correspondence to be a secret one?—Yes: I quote their words.

3152. Mr. *Elliot.*] With regard to the letters and articles which you published in the newspapers, were they generally in support of the Government, or in opposition to the Government?—According to the circumstances of the case.

3153. They were sometimes in opposition to the Government?—Certainly.

3154. Do you think that it is consistent with the position of a public functionary, holding a high office, to carry on a correspondence in a newspaper contrary to the government which he serves?—I think it is not consistent with the character of a high public officer to be a slave.

3155. Do you think it is consistent with the position of a public functionary, holding a high office, to carry on a correspondence in a newspaper contrary to the government which he serves?—I think it is inconsistent with his duty.

3156. Mr. *Hume.*] Is it not a regulation of the East India Company, that no public officer shall write a letter in a public newspaper on any subject?—There are some regulations; I do not recollect the purport of them.

3157. Mr. *Elliot.*] You admitted in an early part of your examination, that there was a rule prohibiting public officers from corresponding in the newspapers?—I do not think I said it was a general rule; I think the question referred to some proceeding of the Court.

3158. Sir *T. H. Maddock.*] Did you write anonymously in consequence of any prohibition on the part of the Government against their officers writing under their own names?—Very likely I did; but I was driven to write anonymously probably for the same reasons which induce people to write anonymously in England sometimes.

3159. Have you ever written anonymously any articles in favour of the Government?—Yes; I have.

3160. Mr. *Hardinge.*] Have you any objection to state whether you ever told the natives, either by word of mouth or in writing, that the Government of Madras was seeking to convert them by force, or to bring about their conversion by improper means?—When I was removed from my office the natives convened a meeting through the sheriff, at which about 50,000 persons attended, and presented an address to me. I was then removed from office, and I considered myself at perfect liberty to speak my sentiments. I did not expect justice either in India or at the Court of Directors; and I considered myself perfectly free in every way. They presented an address to me, and in answer to the address I stated my impressions in full. Afterwards, when I left the service, they convened another meeting and voted me a service of plate.

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plate. In answer to the address presented to me by the natives, I stated as follows: "But the natives of the country must not suppose that the treatment I have received is the true index of the feeling of the British nation towards them, nor need they doubt that their complaints will be listened to by the home authorities, and their grievances redressed. The Government of Great Britain is in the hands of a body of enlightened Ministers of the State, who hold the Christian religion in as high esteem as any party in Madras; but they would not disseminate their religion by means of violence, nor by the less worthy expedients of tampering with the justice of the country. Had the Government met with no resistance in their attempt to coerce the judges of the Sudder Court into measures fatal to impartial justice, it is probable the next attempt would have been an open and undisguised one, to force Christianity upon the Hindus. Although the Marquis of Tweeddale has disclaimed these views, experience has abundantly proved that there are parties connected with the Government who had the will and the means to carry them out. The conduct of the Government towards the Sudder Court forced the judges to resist an order which no judge who knew his duty could submit to; that resistance was foreseen and calculated upon by the advisers of the Government, and there can be no doubt it was the first step of a scheme which was devised for the removal of the second judge, who had been more than once obliged to inform the Government that he was prepared, at all hazards, to uphold the integrity of his court, and to prevent its being made an instrument of injustice."

3161. Sir *R. H. Inglis.*] Where were the 50,000 natives assembled?—It is stated in that pamphlet.

3162. Are you certain as to the numbers?—I did not count them and therefore I cannot say I am certain; but I have no doubt of the fact, because the address was signed by 17,000, and the Government also thought it necessary in consequence to assemble one or two regiments to prevent any evil consequences.

3163. Though not in office at the time, were you in the service of the Company?—I was in the service.

3164. You were in the service of the Company at the time when the proceedings connected with yourself and the meeting you addressed excited such alarm, that the Government had a military force in readiness to check the further progress of such proceedings?—Yes; the address was presented to me nearly a month after the meeting, when my reply to it was given; about the meeting itself I knew nothing but what everybody else knew.

3165. *Chairman.*] You are aware of a petition which was presented to the House of Commons from Madras, stating the grievances which existed among the natives, are you not?—The natives forwarded the petition to me, with a request that I would cause it be presented.

3166. Do you agree in the statements of that petition generally, with respect to the judicial system?—I believe I do agree generally with them, not merely as to the judicial department, but as to the revenue department also.

3167. With respect to the judicial system, that is a statement of the grievances which you think exist in Madras?—Yes.

3168. Viscount *Jocelyn.*] Do you know at all how that petition was got up?—It was got up entirely in India; that I know. I do not know how it was got up. I know the chairman of the association very well, and I have corresponded with him about it. When the petition reached me I had never seen or heard a word of it.

3169. Who was the chairman of the association?—

3170. Mr. *Elliot.*] Were there any Europeans in the association at Madras?—No; the only European who could have had anything to do with the petition was the editor of a newspaper, which belongs to the person I mention. I think it is very likely he had something to do with it, but the contents of the petition are of such a nature that I am perfectly certain they could not have been supplied by any other than by natives.

3171. Viscount *Jocelyn.*] Do you recognise many of the names attached to that petition?—Yes, some of them.

3172. Mr. *Elliot.*] You say some previous correspondence had occurred with you before the petition came home; what was the nature of that correspondence?—I had one letter requesting me to cause a minor petition to be presented,

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presented, requesting delay till a larger petition should come to England; it stated the heads of their complaint, viz., the five subjects to which they wished to advert. I have written to them what I thought they ought to do, with a view to get their grievances redressed; that is since the petition came.

3173. Sir *T. H. Maddock.*] Are you of opinion that the petition is the composition of the natives?—Not entirely so; the chairman of that association is just as able to write it as any gentleman in this room, I imagine. He corresponded with me, and I can easily produce the letters; he is a very able man.

3174. Viscount *Jocelyn.*] Looking at the petition yourself, do you think it was drawn up by natives or by a European?—I think it must have been drawn up by natives, and corrected afterwards by a European.

3175. Mr. *Hardinge.*] Are you aware how many natives in the Presidency town signed it?—I am not; I know none of the particulars of the petition.

3176. Do you think it represents the feelings of the natives of the Madras Presidency?—I have no doubt it does; I have met with the same feelings out of the Presidency.

3177. Do you or do you not think that such a petition might be got up in a Presidency town without reference to the great body of the natives in the Mofussil?—It is very difficult to answer a question of that kind; I believe addresses and petitions are very often got up in a very extraordinary manner, and such a thing might happen at Madras; but I do not believe that people at the Presidency would concoct a petition which represented grievances which entirely belonged to parts out of the Presidency; those grievance are almost entirely confined to the Mofussil.

3178. Sir *J. W. Hogg.*] From the internal evidence afforded by the document itself, is it your opinion that that petition was drawn and prepared by natives or by a European?—It is my opinion that the petition was prepared by natives, and afterwards corrected by a European.

3179. Is not a great deal of the reasoning in that petition founded upon documents laid before Parliament and other public official documents?—I think it is; but I have not read it very carefully.

3180. Do you think that the natives of India in preparing a petition, would found their statements upon facts within their own knowledge, or upon public Parliamentary documents?—The chairman of that association is a very able man; he has had an English education. I have been at his house, and he has a library of English books containing several hundred volumes; he is as able as any gentleman in this room to write a letter, and thinks as much on European subjects as most gentlemen in this room do.

3181. Do you think that the natives of India, in preparing a petition, would found their statements upon facts within their own knowledge, or upon public Parliamentary documents?—I think they would found their petition upon facts within their own knowledge, and if those facts were not sufficient for the purpose, they would obtain facts from other quarters, such as were available to them; I think the contents of that petition, which do refer to documents, refer to such as were quite within the reach of the petitioners, and such as they would naturally allude to. I know one of them was a person of very considerable intelligence, and I do not think he would put before Parliament, or any one else, a document which was not sufficient for its purpose, whether it required native intelligence or European intelligence to perfect it.

3182. *Chairman.*] Are the suggestions which you have made those which you think would remove the grievances which are complained of in the administration of justice in India, or are there any others which you wish to bring before the Committee?—Before any man was appointed to the bench, I would have it ascertained that he was sufficiently qualified; I do not think it would be at any time too late to examine a man who was going to be placed in the Sudder Adawlut. I think wherever a jury is called in, its decision should not be permitted to be set aside, except on grounds of partiality. I would also say that I think the proceedings in our civil courts should be curtailed in some degree; they now proceed almost without limit, whereas in the Moonsiff's Court no proceeding goes beyond the answer. I think also there should be but one Supreme Court in the country, and but one law in the country. I think the subject of the salaries of judicial officers, and of native revenue officers, is a very important one, and I think the native judicial officers should be placed, as much

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much as possible, in a situation of independence, and that they should be able, by their salaries, to keep that position in society which persons of their own rank maintain. With respect to the native revenue officers, I think it is essential for the country, both for its morality and its general welfare as a country, that they should have larger salaries; I consider that most of the districts of Madras are, to a considerable degree, demoralised by the small revenue salaries which the tehsildaars and, I believe, all the native servants in the districts, are paid, so much below what they ought to be; the consequence is, that they make up by fraud and extortion what they ought to receive in the way of salary. I think that the system of revenue has a great connexion with the morality of the country; I think there are systems of revenue in Madras now which tend very greatly to sap the morality of the country as well as to impoverish it.

3183. Mr. *Cobden.*] In what way?—By the system of collection, which is called the ryotwar system; under the annual assessment, every individual has the power, if he can show cause, of getting a remission of his settlement; the estates are small, and there are various causes for which remission can be obtained. In consequence, it is very much the practice of people to set forth causes of remission which do not exist; that is as respects the cultivators themselves, but as respects the service the system is carried on in some districts in a way which cannot fail to produce the greatest immorality. For example, at the beginning of a season there are what are called estimators, men who go round the district and take a sort of general estimate of the crop; after that estimate is taken the party is allowed to carry away his crop and sell it, but till the estimate is taken he cannot do it; it is, of course, the interest of all those persons to make out that there has been some deterioration in the crop, by any means, such as want of irrigation, want of rain, or over assessment. The tehsildars, who go about to make inquiries, have almost entirely under their control the amount of assessment which is raised for the Government in all ryotwar districts. The consequence is, that whenever those people go to a village the first thing the ryots of the village do, is to endeavour to buy them over to get a low assessment.

3184. Sir *T. H. Maddock.*] In the scheme of Indian government which you have suggested, it seems that the Governor-general and the Governors would have to fill up all the vacancies in the civil service; have you considered what test of qualification would be necessary for the admission of persons into the civil service?—I think a test such as they have at the present time might be very easily obtained for all the Presidencies; I will not say that you would have qualified men immediately, but I think you would before long; of course it would render necessary the extension of education in India, which, up to the present time, has been entirely lost sight of. In Madras, by an Act of Parliament, the Government is obliged to spend 5,000*l.* per annum in education; of that sum not half has been expended up to the present time; and although it might have been expended latterly, Lord Tweeddale would not allow the money for education to be expended, because he could not have the Bible introduced into the schools. He wrote a long minute, which he sent to the Court of Directors; whether it was an emanation from his Lordship's own mind or anybody else's, I cannot tell, but he stated in it what certainly was not the fact, that the Bible would be received at all the schools, and that they would be very happy to receive it. The Court of Directors very properly refused to allow it.

3185. Sir *R. H. Inglis.*] Did Lord Tweeddale insist upon its being admitted, or did he merely desire that a school which was willing to admit it should have permission so to do?—I cannot remember the extent to which he went.

3186. You do not wish the Committee to understand that Lord Tweeddale would have made an absolute requirement that the Bible should be introduced?—I do not know that those words were uttered by him; but I know that, practically, that was the effect of it, and the progress of education was impeded in consequence.

3187. Sir *T. H. Maddock.*] Would you place any limit upon the selection of men to fill situations in the civil department, or would you leave it entirely discretionary with the Governor-general and the Governors?—I would leave it entirely discretionary with the Governors. It is my belief that if that were done there would be a civil service much more practical than there is at the present

present time, and in every respect as good; a vast number of men would come into the service who have had experience of India, and who would have had a much better experience than many of the civil servants have now. Many of the civil servants now have no experience whatever; they do not know a word of the English language very often; they have had no intercourse with the natives, and they are not men, in many instances, of superior education. I believe, as I stated the other day, that the civil service, instead of advancing under the College of Haileybury, has rather retrograded; indeed I am convinced of it.

3188. Mr. *Mangles*.] You stated on Thursday, that integrity was rather, in your opinion, on the side of the native than of the European judges; was that opinion a general one, or confined to particular times and places?—I gave that opinion with reference to particular cases which had come under my observation; I meant to say, that if it were a question deducible from facts, there had been as many instances of want of integrity on the part of the Europeans as on the part of the natives; that I am prepared to substantiate at any time by facts.

3189. You think if a native zemindar, or other man of wealth, had a suit involving a large sum of money pending, he would rather have it decided by a native judge than by a European?—I really cannot tell; if you will specify the two men, the native and the European, I can answer the question. I think if the native were equally independent, and sure of being treated, in the event of charges of corruption being made against him, in the same way as the European, he would as soon have one as the other. Place the native in the same situation of independence in which we are supposed to be ourselves in India, and I have not any doubt that you would have the same result.

3190. Have not you stated that a European judge is not in a situation of independence?—He is rather more so than the other; it is assumed, however incorrectly, that he is a better man, and also he has a greater number of friends for his support. If a European gets into difficulties there are always a certain number of his friends in the civil service who are ready to support him; it is not so in the case of a native.

3191. Supposing under existing circumstances a zemindar had a suit involving a large sum of money pending, would he prefer a European or a native judge to decide his suit?—I cannot say; I think if it were some of the judges who are mentioned in Mr. Norton's book, take for example Mr. Anstruther, he would prefer a native. Or take the commissioner who has had the Masulipatam trials mentioned in the 61st and 62nd pages of this book, I have no doubt he would prefer a native judge to him. I think some of the judges have not the smallest idea of doing justice. The best men I have seen among the natives are the Mahomedan law officers, with whom I have sat as a circuit judge. Some of those men are extremely able men; I dare say nine out of ten natives, having a cause such as the question represented, would be better satisfied with having the judgment of a Mahomedan law officer, who is more accustomed to judicial proceedings, than a European taken by chance.

3192. I am supposing a case were there was an equality in point of ability? —If you place them in equally independent situations, I think, if they are both of equal ability, he would have a difficulty in choosing between the two.

3193. Mr. *Macaulay*.] Were you to be understood to say that you supposed a zemindar would prefer the native judge, if the native judge were, in cases of corruption, dealt with as the European is?—I think he would, because in 99 cases out of 100, the native judge would be far better able to decide.

3194. Than the European?—Yes.

3195. The difference between the manner in which the European judge and the native judge are dealt with in cases of corruption, is that you think the European is more favourably dealt with?—I think he escapes with impunity.

3196. You think therefore if the native judge were dealt with as the European is, and if he were to escape with impunity in cases of corruption, he would be more trusted than he is now?—I think if the native felt the same security as the European under a charge of corruption his conduct in such respect would be the same; I did not mean to say that a sense of impunity would make the native less corrupt.

3197. Was not your answer to the effect that a native judge would be preferred to a European if, in cases of corruption, he were dealt with as Europeans now are?—If in charges of corruption he were dealt with in the same way, a sense of impunity would operate the same way in both cases.

 3198. Do

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3198. Do you mean that you think if a native judge when charged with corruption were dealt with as a European judge now is, that would tend to give to the native judge a greater degree of confidence on the part of his countrymen?—I think just the reverse; if the native judge were not likely to be punished for corruption, though he had equal ability with the European, he would certainly not be preferred to the European.

3199. Mr. *Mangles.*] You said there were some judges who did not know a word of the native languages; is that your opinion?—It is the case, certainly.

3200. Do you mean that they are not acquainted with any of the native languages spoken at Madras?—Yes, I have known judges on the Bench who conducted their business entirely in English, and I have known collectors who conducted their business entirely in English.

3201. Do not they pass an examination in the native languages before they leave the college?—They pass an examination, after a fashion; that examination is, in many instances, not worth a straw.

3202. After they have been in the country for 10 or 15 years you think they still remain in such ignorance that they do not know a word of the native languages?—Yes.

3203. Sir *R. H. Inglis.*] Do they decide by means of interpreters?—Yes, they do; some of them. I must observe, that as to the Madras Presidency there are very few persons who do not use interpreters, though those who employ interpreters do not always employ English interpreters. I never myself, except in one district, used the language of the district. I could converse freely in two languages, and was for two years in one district, in which I could converse in the language of the district. I was always afterwards obliged to use Hindostanee as a medium of interpretation; there are numerous languages in use in the different districts of Madras. In Canara not less than 15 languages may come before the court on the same day. Hindostanee therefore, which is understood by almost everybody, is generally employed, and if a person understands that language it is not very important whether he understands any other; because if the parties before him do not understand it, it is certain that there will be many parties in the court unconnected with the case who do understand it.

3204. Do you include Hindostanee among the languages of which some of the judges and collectors do not know a word?—They do not even know that, some of them.

3205. Sir *R. H. Inglis.*] You stated that a certain judge was piously disposed towards the Christians and impiously disposed towards those whom he called the heathen; you added that the word "heathen" was altered by the Court of Directors; will you be pleased to state to what word the phrase in question was altered?—I do not remember saying that the word was altered; I think I said it was objected to by them.

3206. Mr. *Mangles.*] You stated in a former part of your evidence, when speaking of your having been a collector, that through the negligence of your predecessor corruption prevailed in the district from the highest to the lowest officers; how is that reconcileable with your opinion as to the purity of the natives?—I think in every district in India the collector gives a character to the whole society. This man did not know a word of any language but English; I can mention as a fact that when I joined the district the head sheistadar was spending 3,000 rupees a month; I had myself great difficulty, in consequence of the corruption which prevailed there, in carrying on the duties, therefore I got two natives from another district to assist me, and by that means was able to carry on the duties. Just before I went to that district I was in the district of Guntoor, where there had been a very able and very good man; in that district the public servants were good to a man almost; I believe if the Governor is good the Presidency generally will take its tone from him; if the collector is bad the district will take its tone from him; they will be good or evil, according to the collector or according to the Governor.

3207. Mr. *Elliot.*] In speaking of Lord Tweeddale, you have used some very strong epithets to-day; did you use similar epithets, or any intemperate language which you should not have been induced to use in your communications with the Government?—Till I was removed from office I used no intemperate language to the Government; after I was removed from office I did. At the commencement of my quarrel with the Government, I wrote two letters

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letters with my colleague requesting the Governor to put the Court in motion by taking notice of the proceedings of the first judge. Those letters were written with the greatest temperance, and I have one of those letters before me now.

3208. You were understood to say that you were removed in consequence of intemperate language which you had used under some provocation?—I was removed in consequence of what they said was intemperate language. I do not admit that I used any.

3209. The Committee are to understand that the epithets which you have to-day applied to Lord Tweeddale were not used by you in any communication with the Government previous to your removal?—Certainly not. I wish to be allowed to make one further observation. At the time I was removed, Lord Tweeddale was living at the Neilgherry Hills; there was one member of the Council only at Madras, who was utterly unfit for anything; for, in fact, he was one of the most stupid men I ever saw. Lord Tweeddale was residing on the Hills, in violation of the Act of Parliament.

3210. Mr. *J. Fitzgerald.*] You have read Mr. Norton's pamphlet?—Yes.

3211. Does it, in your opinion, fairly represent the decisions of the courts of justice at Madras?—Undoubtedly it does. Mr. Norton has had a perfect opportunity of knowing what was going on in the courts. He was the Government vakeel in the Sudder Adawlut, and all the papers must have been taken from the records.

3212. You have read the pamphlet yourself?—The greater part of it.

3213. Will you turn to page 90, and tell me whether it correctly represents the course of proceeding in taking depositions before magistrates?—It does, but it requires an explanation fully to understand it. The regulations of the Government in civil cases allow the judge to employ a native in taking down evidence, in the same way as our Masters in Chancery take down evidence. This does not often happen, I imagine, in criminal cases. There was a time when criminal judges were in the habit of hearing two trials at the same time, whether they were cases of murder or whatever they might be. The Sudder Court, however, passed an order declaring that two trials should not be held at the same time. The Sudder, however, has passed other orders just as memorable as that. They passed an order that in cases of Thuggee a man might be hanged upon evidence delivered 1,000 miles off. They said it was very inconvenient to bring men such a distance, so that in the case of Thugs they might be hanged upon evidence delivered at a distance. That order was revoked in consequence of its being discovered that there were certain judges of the circuit court who would have refused to abide by it, and who would not have hanged people on such evidence.

3214. I find this statement at page 7, "That any man will do for a judge has long been the established rule; and notwithstanding the advantage afforded by the existence of the subordinate judgeships, the higher appointments are not unfrequently bestowed upon revenue officers who have proved themselves wanting in efficiency, and are considered unfit for a responsible revenue charge;" does that truly represent the fact?—It certainly does; there can be no doubt that men who have been found fit for nothing else have been put into the revenue department as collectors, and it is quite in accordance with the views which were laid down by Sir Thomas Monro. In a letter which I not long ago read, which will be found in the "Life of Sir Thomas Monro," he says, that more able men are required for the revenue department than for the judicial department, and he contemplates the ablest men being placed in the revenue department. He speaks also of their salaries, which he contends should be much higher than those given to the judicial department.

3215. Sir *J. W. Hogg.*] You said that Mr. Norton had an opportunity of becoming well acquainted with the cases which he has reported, from the fact of his being the Government pleader in the Sudder?—Yes.

3216. Was he appointed Government pleader in the Sudder before or after the publication of his pamphlet?—I do not know whether he was appointed Government pleader before; he was a pleader in the Sudder Court; I do not know the date at which he was employed by the Government; his information was undoubtedly collected in the Sudder Court, but whether as a Government pleader or not I am unable to say.

3217. You do not know whether, in fact, he was appointed Government

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pleader after the pamphlet had been published, or before?—I cannot say whether it was so or not.

3218. Mr. *Elliot.*] Do you know when the pamphlet was published?—I do not know; it has been very recently published.

3219. Mr. *Hume.*] Will you state what opportunity you consider Mr. Norton had of ascertaining the facts which he relates in his pamphlet?—I think Mr. Norton was acquainted with most of the gentlemen in the civil service of Madras, and I think they would have allowed him to see all those proceedings. I think, as vakeel of the court, and being well acquainted with all the gentlemen in the court, they would not have objected to his compiling a pamphlet of that sort.

3220. Are you personally acquainted with him?—Yes.

3221. Would you regard him as a man of good judgment?—He is a very able man; I am quite certain he is incapable of misrepresenting any fact intentionally. Most of those cases, I do not know how many of them, have been embodied in the report of the deputy-registrar, Mr. Arbuthnot.

3222. Mr. *Newdegate.*] The Committee understood you to say, that you thought it a great injustice that evidence should have been taken at a distance, and that men should have been punished for it?—I said I considered it a great injustice that a man should be liable to be hanged without being confronted with the witnesses upon whose testimony he was to be hanged.

3223. Are the Committee to understand you to state that persons were executed without having been duly tried, whether taken in one part of India or another?—I cannot tell to what extent it was put in practice. All I know of the fact is, that the Sudder Adawlut gave orders that in cases of Thuggee, a man might be convicted on evidence given at a distance by men with whom he had never been confronted. There can be no doubt that the greatest injustice did take place in the mode of inquiring into cases of Thuggee. An instance occurred in one district very shortly before I arrived there. There were either five or seven men convicted of Thuggee; all those men had confessed, evidently through the influence of the police, at the time they were under sentence of death. One of the officers belonging to the Thuggee department arrived there. He said, "Before you hang those men I should like my approvers to see them." The approvers did see them, and they said immediately, "These were not the men who committed the murder; the murder was committed by five other men." The approvers pointed out those five other men, who were hanged, and the previous ones were let off. I do not know the fact that those men were convicted on evidence taken at a distance.

3224. You do not intend to say that those men had been convicted in consequence of the evidence against them having been taken at a distance?—I do not know how the fact is in that respect.

3225. The case to which you alluded was a case of danger arising from the arrest of parties, and the evidence being given against them at a distance from the court, their identity not being sufficiently ascertained?—I cannot say how this arrest took place; I imagine they were arrested on suspicion, and the regular police, finding it difficult to get proof against them, induced them, by promises of pardon, to confess their crime. That happens very commonly in India, owing to the village police having become almost obsolete, in consequence of the general poverty of the inhabitants, which has broken up the village system, and owing to the apathy on the part of the village police, arising from the conduct adopted towards them by the regular police.

3226. Sir *T. H. Maddock.*] Are you not aware that from the difficulty of suppressing the atrocious crime of Thuggee, which was universal throughout India, the Legislature of India found it necessary to adopt the very extraordinary expedient of passing a law making it criminal, and so criminal that a person was liable to be imprisoned for life upon conviction to have been a member of a Thuggee gang?—I do not think there is anything very extraordinary in the existence of a law of that sort; I think anybody would be subject to the same sort of law in any civilized country; any person committing a crime at one time is always amenable for it at an after period.

3227. Such being the case, would not it be necessary to take evidence at a distance?—I cannot conceive that anything can justify taking evidence against a man without his being confronted with the witnesses.

John

John Farley Leith, Esq., called in; and Examined.

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3228. *Chairman.*] WILL you state to the Committee what opportunities you have had of ascertaining the mode of administering justice in India?—As an English barrister, I proceeded to India, in the prosecution of my profession, in 1832. I was nearly 14 years an advocate in Her Majesty's Supreme Court in Calcutta. Since I have returned I have been practising in the Privy Council in appeals from all parts of India, both from the Company's Courts and from Her Majesty's Courts.

3229. Did you ever practice in the Sudder Court?—I have on several occasions been in the Sudder Court, and also in the Mofussil Courts. It has been on special occasions, when I have been specially retained.

3230. The Committee has had the constitution and character of those courts described to them by previous witnesses: will you state to the Committee what your opinion is as to the existing defects in the administration of justice in the Supreme Court?—The Supreme Court, I think, answers the requirements of the Charter, and the statute under which it was constituted, extremely well; it has followed, as soon as was practicable, the reforms which have gone on in England, in the courts of Westminster Hall; from all the courts of Westminster Hall, and from the Ecclesiastical and Admiralty Courts at Doctors' Commons, the reports of decisions have come out, I may say, almost hot from the press, and they form the foundation of the decisions in Her Majesty's Supreme Courts; those courts also follow, as closely as possible, the courts here in their mode of procedure: the same rules of practice prevail, and the same principles of decision. I do not, at this moment, see anything which I can suggest for the improvement of those courts; the judges selected are generally men of ability, and, during the time I was there, those then presiding in the Calcutta Supreme Court exercised the important duties confided to them with zeal and great ability, being men of talent, and possessing the necessary legal acquirements.

3231. With regard to the Sudder Court at Calcutta, what is your opinion?—The Sudder Court at Calcutta, I think, might be very much improved; from what I have seen of it, I should certainly say there is very considerable ability in the judges, and when they have failed to come up to the standard which the Committee, or which I, as a lawyer, might seek to establish, that has rather been from the want of a rule in some particular case to which to refer, and by which to decide. But in their application of the law, and the mode of dealing with facts, although they sometimes make mistakes, I may say that I have been frequently surprised, knowing the course which they have generally passed through before obtaining a seat on the bench of that court, that they have done so well; therefore I must suppose that they are men of great intelligence and very considerable ability, men who devote themselves to the particular duties they have to perform, and who have taken advantage of all their opportunities for preparing themselves for so doing. With regard to their integrity, I never heard a suspicion, during the time I was there, against any one man in that court.

3232. Is there any change in the Sudder Court which you would suggest?—There is, particularly with reference to one question which has been considered by those who are desirous of improvement in the administration of justice in India, for many years. The Committee is aware that there are two distinct systems of judicature in British India. One of them is carried out by the Queen's Courts, the local jurisdiction of which is confined to the three Presidencies of Calcutta, Bombay, and Madras; there is a sort of local ambit within which they have general jurisdiction, but they have jurisdiction beyond that, extending over British-born subjects, and they have also jurisdiction over natives, who are distinguished from British-born subjects, in cases where they have entered into written contracts with British-born subjects to render themselves amenable to the process of the court in the particular matter contained in the contract. There is also another distinct jurisdiction which they exercise, which has arisen from the very commencement of the court, and is founded upon an authority very high in law, namely, Lord Coke, with regard to the construction of the word "inhabitants." By the charter of justice the Supreme Court has jurisdiction over the inhabitants of Calcutta. Now with

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reference to the authorities upon the construction of the word "inhabitants," those who may be carrying on trade, and have places of business in Calcutta for carrying on trade there, though they may not reside there, are also held liable to that jurisdiction. The other system of judicature is entirely distinct. It is the system which prevails in the provincial, or Mofussil, or Company's Courts throughout British India. From those courts the last appeal in India is, in civil suits, to the Sudder Dewanny Adawlut, and in criminal, to the Sudder Nizamut Adawlut, at each Presidency. A suggestion has been made for the purpose of getting rid of this anomaly, which, in earlier times, was one which was felt to give rise to practical inconveniences; in later times, both with regard to the judges and the Government, who have not come into conflict, no practical inconvenience has arisen; but still it is an anomaly that there should be in British India, where the Government is one, two systems of judicature. A very simple remedy suggests itself to my mind for getting rid of that: it would be that of joining the Sudder and the Supreme Courts, and making such amalgamated court the supreme court of appeal: when I say joining them, I mean that there should be associated with the Company's officers, who are members of the covenanted civil service of India, professionally educated English judges; by that means I think you would obtain that which is wanting at present in the Sudder. The covenanted service judges would bring into practical use all their experience and knowledge of the institutions of the country and the people, their manners and their usages, and you would then have an educated, practical lawyer to exercise his judgment on the facts and law, guided by a legal mind accustomed to accurate investigation and logical reasoning, and to assist them with rules when the positive law of the country which they are called on to administer is deficient; that positive law being either the Hindoo law, the Mahomedan law, or the law contained in the Regulations of the Government. Now the Regulations themselves presuppose a case occurring, and it is one which very often occurs, where not one of those several systems of positive law will supply a rule for the occasion, with reference to the circumstances which occur in the case. The Regulations say in that case, you must decide by "*justice, equity, and good conscience;*" but all educated men know that that is not to be the arbitrary will of the judge; it must be equity founded upon the fundamental principles of natural law and universal jurisprudence, which is a science of itself, and those principles will guide the judge when there is a defect in the positive law. Again, the English law itself, and the Roman civil law, will supply principles for the purpose which may be adapted as rules for the occasion by which to decide; and I think the judges would be very much strengthened in the Sudder Court had they associated with them such professional English judges. It would be for the Legislature to consider whether one, or two, or three was the proper number to be appointed.

I have another view in recommending this change, and that is with regard to the improvement of the local judicatures and Mofussil courts throughout the country. My humble opinion is, that the mode to improve them is, first, to improve the fountain-head, the highest court—the supreme appellate tribunal, in immediate connexion with which are all the English zillah judges; they would be under the superintendence of this court, which would establish the mode of procedure in the zillah courts, and the appellate superior judges would see and take care that the zillah judges did their duty. They, again, have the superintendence over the principal sudder ameens, and the sudder ameens, and the moonsiffs; so that you would have a regular gradation of courts, and improvement proceeding downwards through all from the highest, and supervision keeping in check the lowest. To such an appellate tribunal might be very safely confided the practical details of the improvement of those several courts. It would require, no doubt, that there should be in this appellate court a good professionally educated English Bar, and no court is too high to deny the advantage which arises from a good Bar. I would suggest that the English language should be altogether adopted in the appellate court, though I am against it in the Mofussil courts. I think it would be very important that the English language, in oral pleading, should be always used in the appellate court for that purpose. I am informed, the Sudder judges now, instead of having to go through the difficulty and inconvenience of themselves translating the record and cause papers, when they come up from the zillah courts on appeal, have them translated into English by an officer in the Sudder before they are

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are laid before them; so that we have advanced now to that step, that the Sudder judges consider the case, not through the native languages, in which the case comes up to that court, but in an English translation. Further, they are required now, by the regulations of the Government, to pronounce their judgment in English, and give their reasons in English, so as much as possible to relieve them from the native officers, and from the difficulties which might occur, as the Committee will suppose, where those important matters are to go through the hands of a native official; so that we have arrived at the point of having a court using the English language in all particulars, with the exception of this, that the whole of the oral pleading in that court may be still carried on in the native languages. In 1846, by a resolution of the Sudder Dewanny Adawlut, approved of by the Governor-general in Council, it was declared that where both pleaders engaged in the appeal could understand and speak English, the judge might, in his discretion, authorise the oral pleadings to be carried on in English. Some judges have a prejudice against it; other judges desire it; and it is in the discretion of the judge who hears the case to allow or disallow two Englishmen, or two men conversant with English, to carry on the pleading before him in their and his own language. Sometimes there is a trick made use of for the purpose of preventing it. If one party knows that there is to be an English barrister employed, and he had intended to employ a vakeel who understood English, he sometimes will not avail himself of his services, but will employ a native, for the purpose of shutting out the English barrister on the other side. So that the step I now suggest is only that of making it compulsory in all cases that the oral pleadings should be in English. This would allow the whole of the Bar at present practising in the Supreme Court to come in, amounting, I believe, to 20; you would thus at once obtain a sufficient Bar for the purpose of carrying on the business. They are, in fact, now admitted to practice there, yet the privilege given by Act 1, 1846, sec. 5, is encumbered with this condition, that they shall in all respects be subject to the same rules as the other pleaders, one of which rules is, that they shall know the native languages; and no barrister, I believe, has been yet able satisfactorily to address the court in the vernacular languages of the country. There is one class of persons whom I should be very sorry to injure among the pleaders who are now engaged in that court; I should state that the great body of pleaders, certainly the best of them, in that court, are well-instructed intelligent men, and who have had an English education.

3233. Your opinion is favourable to the talent and capability of the vakeels and pleaders in the Sudder Court, now performing those duties there?—Certainly; though they have not had a regular legal education, yet they are well versed in the Regulation law and in the Hindoo and Mahomedan laws.

3234. Mr. *Macaulay*.] Do they generally understand English?—They all do; although it is not, perhaps, their mother tongue; many of them, if not all, have been born in the country; some having had the advantages of an European education at home, they now form the best class of pleaders; native pleaders are very much going out. It has been spoken of as an injury to the parties in a suit, that English should be the mode of communicating with the court when they are ignorant of it. That applies with very great force in the Mofussil courts when the parties are themselves there; but with respect to the Sudder being the appeal court from the provinces, the parties are spread over the whole of India; they are not there themselves.

3235. The Sudder decides on written documents?—Yes; the parties themselves are scattered over Bengal, Bahar, and Orissa, and are not present in the court.

Jovis, 21° *die Aprilis*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Mr. Elliot.
Mr. Macaulay.	Sir T. H. Maddock.
Mr. Spooner.	Sir George Grey.
Mr. Mangles.	Sir Charles Wood.
Sir R. H. Inglis.	Mr. Milner Gibson.
Mr. R. H. Clive.	Mr. Hume.
Mr. Lowe.	Sir J. W. Hogg.
Mr. Cobden.	Mr. J. Fitzgerald.
Mr. Vernon Smith.	Mr. Labouchere.
Mr. Newdegate.	Mr. Ellis.

THOMAS BARING, Esq., in the Chair.

John Farley Leith, Esq., called in; and further Examined.

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3236. *Chairman.*] IS there any portion of your former evidence which you wish to correct?—I stated generally that the papers for the Sudder Court were all translated; I wish to qualify that answer. Knowing that Mr. Halliday had been examined before the Judicial Committee after me, I have referred to, and now have before me, the evidence which Mr. Halliday there gave. I find he states as follows: he is asked, "What is the record they have before them?" And he says, "I have been endeavouring to trace the date of the alteration which was made, but I have been unable to find the date; it was about four or five years back; since that time, instead of the judges having to read and translate, each separately by himself, all the voluminous papers in the native language, as was formerly the custom, the important papers, for instance the pleadings and the decision of the court below, containing the reasons in full for the decision against which the appeal is made, are translated by official persons employed for that purpose, and transcripts of the translations in manuscript are placed in the hands of each judge who is to sit on the bench at the time of the trial. It is generally upon the mere perusal of those translations, and upon hearing the vakeels or the counsel, that the case is decided, reference only being made to the papers in the native languages in those instances in which, owing to any dispute arising regarding them, it may be necessary to refer to them specially: but this does not happen usually." "The four papers called pleadings are, according to the present practice, placed in the hands of translators, who translate them into English. Of course it is easier for the judges to pick out in an English translation the pith of the case, than it would be when the judges had at the same time to translate them from the native language; those papers therefore, that is to say, the four pleadings and the decision of the court below, are the papers translated into English for the judges of the Sudder Court." With regard to English pleaders, perhaps I may be allowed to refer to Mr. Halliday's evidence on the subject. The question is asked, "Has this new practice at Calcutta had the effect of introducing into the Sudder Court English counsel? Very largely.—Then in what language is the argument conducted? The rule of the Sudder Court is, that whenever the pleaders on both sides understand English, and are willing, the argument should be conducted in English; and in practice it has come to be more and more a matter of frequency for the parties to employ vakeels on both sides who do understand English, either natives who do understand English, or English pleaders who are regularly attached to the Sudder Court, or of late, very largely, barristers of the Calcutta Bar; that system is coming more and more into use every year."

3237. Mr. *Macaulay.*] A great part of the business before the Sudder Adawlut consists in revising evidence?—Yes.

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3238. The evidence is not translated?—The evidence is not translated as yet, and one of the questions of the Judicial Committee was, why it was not so translated; it is equally necessary.

3239. Mr. *Elliot*.] Are the documents which are put in translated?—Mr. Halliday says the important papers; there is some uncertainty about what he says on that head.

3240. *Chairman*.] Would you recommend the introduction of juries into the Sudder Court?—I think there is no occasion for it; that court only exercises the functions of a court of appeal, and revises the proceedings of the subordinate courts from whom the appeal has come.

3241. Mr. *Macaulay*.] How would you provide for the administration of justice within the Presidencies when the Supreme Courts and the Sudder Courts were united, as you have suggested?—A court of original jurisdiction must be established in Calcutta, being a court of first instance; and as that is to a great extent an English town, I think it is absolutely necessary that there should be a court in which should preside judges drawn from the body from which the present judges are drawn, namely, the English and Irish Bars, educated lawyers, called to the Bar, and of a certain number of years' standing. The number of judges who should then be placed in that court would be a question for the Legislature to decide. What I would humbly suggest is, that if there be an appeal from that court to the united court, it must be kept in view that the English judges, or educated barristers who are to be judges, and be associated with the covenanted civil servants of the Company in the Sudder Court as a court of appeal, must be of that character and standing that you may have a legitimate appeal from the court of first instance in Calcutta to that court, if there be intended to be any such appeal. It may be that the appeal may be direct from the court of first instance, direct to the Judicial Committee of the Privy Council here. It would, however, scarcely be wise to make the subordinate court a court of a higher character, as regards the men placed in it as judges, than the appellate court; therefore, if you have two English judges in the court of original jurisdiction, you must have at least two, if not three, in the other court. Probably it might be supposed that in the court of original jurisdiction there should be but one English judge. The only thing which strikes me as being opposed to that arrangement is this, the casualties which occur as to health and life in that country; but I think a provision might be made which would meet that difficulty, and that it would be possible for one of the judges of the appellate court to fill up for the time a temporary vacancy caused by the absence or illness of a judge of original jurisdiction; so that that matter is one of detail, which might be easily got over.

3242. Would it not be possible for the judges of the Supreme Court, or the Sudder Court, whichever it might be called, to take upon themselves this duty, in the same manner in which the judges of the Court of Queen's Bench in England sit at Guildhall for the City?—Yes, like a case at Nisi Prius coming up to the Court in Banc.

3243. Would not it be a preferable system if you made the Supreme Court strong enough in point of numbers, and as regards the ability of the judges, to make one of those judges available for that purpose?—I think it might be advantageous in this way, that it is desirable to have the judge who was present at the decision of the cause in the court below, to give information to the judges associated with him in the ultimate jurisdiction.

3244. Sir *G. Grey*.] Taking that view of the case, how may English judges do you think would be necessary at Calcutta?—I do not think you could do with less than three. Perhaps it may be necessary to state, that by the census in 1837 the population of Calcutta, which is almost entirely a mercantile and commercial population, was 229,714; but since then there must have been a very large addition, and that to a great extent of Europeans. Since 1837 the European population has very much increased, and the trade of the place has advanced.

3245. Do you mean that the increase of the population might render an increase in the number of judges necessary, in order to get through the business?—Yes.

3246. Sir *T. H. Maddock*.] Are you of opinion that the criminal business of the court in Calcutta, whatever its name may be, might be very materially diminished by giving jurisdiction in all petty offences to some inferior tribunal?

—Certainly;

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—Certainly; but at present the questions, as I understood them, and my answers, have been confined to the civil department; of course there would be a very material and important question to be considered with reference to rendering the judges, who are to sit in that court, whatever aid or assistance might be obtained on the criminal side of the court as well as the civil.

3247. Mr. *Elliot.*] The Committee have understood from a previous witness that there is now a court of minor jurisdiction in Calcutta?—There is a court of minor jurisdiction now established at Calcutta.

3248. Independently of the Small Cause Court, has not there been a court established with an inferior jurisdiction to that of the Supreme Court?—No; there is but one petty court, which has superseded the old Court of Requests, and resembles the county courts in this country.

3249. Are any of the cases which are decided in that court appealable?—By *certiorari*. By a statute of the British Legislature, a writ of *certiorari* lay from the Court of Requests to the Supreme Court, for the purpose of bringing up proceedings from its jurisdiction into the Supreme Court; so that the Supreme Court had incidentally a control over the proceedings of the inferior court; I cannot, however, state whether that power has been preserved in the constitution of the new court, which has arisen out of the former, which was a statutory court.

3250. Would you recommend, under the new arrangement which you propose, that appeals should lie from that court to the Supreme Court, or to the amalgamated court?—I am, on principle, opposed to a succession of appeals; I think they should be kept down as much as possible; I should therefore say that it would be more satisfactory to have an appeal at once to the court constituted for that purpose, than that it should go through the intervening court, now called the Supreme Court; I think it would be better to have an appeal direct to the amalgamated court, than to have an intermediate court to appeal to.

3251. Mr. *Macaulay.*] When you just now used the expression "Supreme Court," did not you refer to a court appointed to administer justice to the Presidency?—Yes.

3252. Not the chief court of appeal, but the court, whether it consisted of one judge of the Supreme Court, or some one or more separate officers, which administered justice locally at the Presidency?—Yes.

3253. *Chairman.*] If one civil code and one criminal code were introduced, applicable to all the inhabitants of India, of whatever nation they might be, would it be necessary to have a special court for the purpose of adjudicating upon transactions in the Presidency itself?—I should say assuredly it would, for this reason, that there must be a court of original jurisdiction: and I may put it in this way; would any association of the members of the civil service aid or assist the administration of justice by that tribunal? I think it would not: I think the greater number of the cases which occur in Calcutta are those which an English barrister, sitting as judge, would be able to deal with without associating with him members of the civil service. The number of the members of the civil service is not enough now for the judicial business of the country, and you would only increase the difficulty without rendering more perfect the tribunal you are going to create. You would create embarrassment in reference to the disposition of the covenanted civil servants of the Company.

3254. Sir *G. Grey.*] Do you mean, that irrespective of the code of law to be administered, you think it is necessary that at Calcutta there should be a court of the first instance and a court of appeal?—I think so.

3255. The jurisdiction of the court of the first instance being confined within what limits?—I think the local jurisdiction which is now exercised is a very proper one, or its radius might be beneficially extended to include the suburbs of Calcutta.

3256. That is, for Calcutta?—Yes.

3257. The amalgamated court, which would be the court of appeal, would exercise a jurisdiction over a far wider territory, would not it?—Yes. I am speaking of the whole of the British territory in India, exclusive of that which is within Bombay, that which is within Madras, and that which is within the North-western Provinces. This court of appeal would be an appellate tribunal from the whole of that side of India, with this exception. At present there is a Sudder Court at Agra, which is a court of appeal from the North-western Provinces

Provinces since the Act of William the Fourth. From all the courts within that district an appeal lies, not to the Sudder Dewanny Adawlut in Calcutta, but to the Sudder Dewanny in Agra. That court is clothed with powers similar in all respects to the powers which are vested in the Sudder Dewanny Adawlut at Calcutta, but there is now an intercommunication between them, which has very beneficial effects. In sending what are called circular orders for the direction of the judges of the several courts throughout the country, and giving answers to the questions sent by those judges, as to constructions of Regulations and such like, there are frequent communications made between the Sudder Dewanny Adawlut at Agra and the Sudder Dewanny Adawlut at Calcutta. That means of communication, I think, ought to be preserved; and I should suggest, with all deference, that with regard to the Sudder Dewanny Adawlut at Agra, and with regard to the Sudder Dewanny Adawlut at Bombay, and with regard to the Sudder Dewanny Adawlut at Madras, there should be a controlling power in the chief court, if it is to be at the Presidency of Calcutta, in order to ensure what I think is essential to the due administration of justice, uniformity of practice, and uniformity with regard to the decisions of the courts throughout the whole of the provinces under our Government.

3258. Mr. *Macaulay*.] At Bombay you would probably constitute the Supreme Court partly of the Company's judges and partly of the Queen's judges?—Yes.

3259. And the same at Madras?—Yes.

3260. But at Agra you do not see any possibility of forming a court which should be compounded of the Sudder Court and the Queen's Court?—No, I do not see any impossibility; I think it would not be necessary, in consequence of there being so few Europeans there. I have been there, and I know that the European community is very small; it is, exclusive of the servants of the Company, confined to some traders in the town, and to those who are carrying on the indigo concerns in the Upper Provinces.

3261. Sir *T. H. Maddock*.] Would you see any objection to the appointment of at least one judge, an English barrister, to be associated with the judges of the Sudder Dewanny Adawlut?—On the contrary, I should think that great practical advantages would arise from it.

3262. Mr. *Macaulay*.] Do you think you could obtain an English Bar at Agra?—I am satisfied of it; I am satisfied, from the large amount of property in the province, and from the number of suits which must necessarily come before that court, it would draw to it a sufficient Bar.

3263. If in the other courts at Madras, Bombay, and Calcutta, you had English lawyers sitting under the Queen's commissioner, would not it rather lower the Sudder Court at Agra if there were no such persons there?—It would. By having an English lawyer you would also be more likely to secure uniformity of practice and decision, because there would be a community of mind between such educated English lawyer and the Supreme Appeal Court in Calcutta, which would very much obviate the necessity for frequent references.

3264. At present, in the higher classes of criminal cases, an Englishman who is accused must be taken to Calcutta to be tried, must not he?—He must.

3265. Would not it be an advantage to have a court in the Upper Provinces which should be competent to administer justice in such cases?—I think so. I may here mention the present state of the law with regard to British subjects: Act 4 of 1843 has altered the jurisdiction which was conferred by the Act of the 53d of George the Third, c. 155, sec. 105, which gave a jurisdiction to the zillah magistrate, a civil servant of the Company, over British subjects, in cases of assault and trespass against the natives. Under that Act a writ of *certiorari* might be granted by the Supreme Court; so that there was in effect an appeal to the Supreme Court in those cases; that writ, however, has been taken away by an Act of the local Legislature, Act 4 of 1843, which has abolished the writ of *certiorari* to the Supreme Court, and has made all cases coming under the category of the cases described in the 53d of George the Third, cases which are to be appealed in the ordinary course, like all other cases in India. They therefore now come up to the Sudder Nizamut Adawlut in Calcutta, which is the highest court of appeal in criminal matters, as distinguished from the civil court, the Sudder Dewanny Adawlut, in the same Presidency.

3266. *Chairman*.] The Supreme Courts of Bombay and Madras would no longer be courts of appeal, but would be courts of local jurisdiction, would they not?

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not?—No: I think there must be a court of appeal in each of those Presidencies; but I propose that there should be a controlling power in the court in Calcutta; that it should have a superintending and controlling power, not to interfere with proceedings before the others, but for the purpose of obtaining that uniformity of law and procedure which is so essential throughout the whole of the Company's territories, by taking care that the rules of procedure and the books which should be referred to as authorities in one court should govern and be authorities in each of the other courts.

3267. Sir *G. Grey*.] You do not mean that the court at Calcutta should be a court of appeal from the Supreme Courts of Madras and Bombay?—No, nor from that of Agra.

3268. Mr. *Macaulay*.] But that they should correspond with each other, as the Sudder Courts do now?—Yes; and that if there should be a question between them, it should be settled by the superior authority.

3269. You say that the correspondence between the two Sudder Courts in the Bengal Presidency is productive of great good?—It is.

3270. And you think to extend the relation now established between the Sudder Court at Calcutta and the Sudder Court at Agra to the other courts would be beneficial?—Yes; I am not aware whether in this communication the court of Calcutta has at present a controlling power, but I should say, if it has not, it would be beneficial that there should be a power in the highest court to settle any difference of opinion which might arise.

3271 Mr. *Elliot*.] You contemplate that the Supreme Court in Calcutta, which is to have an original jurisdiction only, should administer the law contained in the code for the general administration of justice in India?—Certainly, whether that were a civil code or a criminal code.

3272. Mr. *Hume*.] The Committee understand you to say that you would desire to see a uniformity of practice throughout the whole of the Presidencies?—Yes.

3273. Mr. *J. Fitzgerald*.] Would you preserve the present Supreme Court, in addition to the consolidated court which you have suggested?—I should not say that I would retain the Supreme Court, but I would say that a court, modelled very much in the same way as the present Supreme Court is, should be substituted for that which we now term the Supreme Court, but it should be constituted with reference to the Appeal Court also to be established for the purpose of reversing its decisions when erroneous, which would necessarily lead the mind to conclude that such a court might be properly constituted with a less number of judges, and yet be sufficient to do the work of the Presidency, which is very important in a commercial point of view.

3274. Sir *T. H. Maddock*.] As it would cease to be the highest court, it would not properly be called any longer the Supreme Court?—No; with regard to that, I may say, that though it has been usually the case to distinguish the court in Calcutta as the Supreme Court, for as Her Majesty's court it was entitled to that name, it is very much overlooked that the Sudder Dewanny Adawlut is itself also a statutory court; though it is treated as a Company's court. It was established in its present jurisdiction, and with its present powers, under a statute of the British Legislature; the statute of the 21st of George the Third, c. 70, sec. 21, is that which made the Sudder Dewanny Adawlut a court of record; and therefore, although the other is called Her Majesty's court by reason of the Charter which the Legislature authorised under the 13th of George the Third, the Sudder Dewanny Adawlut is a court which was made a court of record by a statute of the Imperial Parliament.

3275. With reference to the proposed consolidated court, you think it would be wise to vest in that court the power of regulating the authorities, and the procedure in the courts of justice in India generally?—Yes.

3276. *Chairman*.] Will you state to the Committee your impressions as to the operation of the Mofussil courts, their defects, if there are any, and what remedies you would suggest for them?—The Mofussil courts consist of the zillah judge, or city judge, who is a covenanted civil servant of the East India Company, a British-born subject. There is also the principal sudder ameen's court, there is the sudder ameen's court, and there is the moonsiff's court, which is the lowest. I am of opinion that the system of a gradation of courts is in itself a good system, and that by a plan of determined, steady, gradual reform those courts may be made fit and sufficient for all the purposes of the administration

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administration of justice, whether as regards natives or Europeans. I think with a Supreme Court such as that which I have designated at the chief Presidency, a court sufficient to originate orders and directions, and with power to carry them into effect, the other Presidency courts and the Mofussil courts may be so improved as to answer all the purposes of the administration of justice among the various classes whom we find in India. I believe the native judges do their business extremely well; that, however, is a matter to which I can speak merely from general notoriety, but I know they have given satisfaction to the higher courts. With respect to the English judges in the zillah courts, perhaps there is some fault to be found with the mode in which the appointments take place. I am, however, one of those who consider that the training to be obtained by passing through the office of collector, instead of being prejudicial, is beneficial; but I think if the judicial service were to have more advantages, perhaps I may say pecuniary advantages, a separate judicial service would eventually arise, so that we might have a man who has once entered the judicial service in the zillah court remaining there from that time till he may be promoted directly from the zillah court, in which he has been sitting so long, and obtaining experience as a judge, into the appellate court at one of the Presidencies, so that he should not be afterwards distracted with matters of revenue being taken into the Revenue Board, and then again taken from the Revenue Board and put into the court of appeal. I think such changes are not beneficial, and I think that the vacancies in the Presidency court should be filled up from the zillah courts direct. But with regard to the means of original professional training, when one of the covenanted servants of the Company proceeds from this country to India, I think the best possible training which can at present be obtained is by passing through the office of collector; and I could show that there is very great misconception as to what are the duties of a collector. I have heard him described as a custom-house officer. There is no analogy between the two offices. In all departments it is a juridical office, and in some of the most important it is purely judicial. I am satisfied that with regard to the institutions of the country, and with regard to the languages, the customs and manners of the people, and their religion, which enters so closely into the laws of the country, the best practical knowledge of all those matters is to be obtained by mixing with the people, and that is best effected by being placed in a district where the duties of collector are to be performed. In that way may be obtained useful and practical information, which will be of great assistance when the individual comes to be a judge in the zillah court. The greater part of the cases which are decided in that court are cases arising out of claims and rights to land and its incidents; the other matters adjudicated bear but a small proportion to those which are immediately within the practice and knowledge of the collector. Besides his fiscal duties in relation to the land revenue, the collector decides questions as to the nature of land tenures and others, involving the rights of property, and disputed rights to the possession of land and its produce, claims of rent, questions with regard to the granting of pottahs, or leases, and the right to receipts; in fact, there are so many important questions, that I can scarcely exclude any which relate to land. With the tenures of the country the collector must be intimately acquainted: he has to decide upon them, and in questions respecting the right to property, both claims to rent and titles to lands; those questions come before him judicially; he has the power to issue process, examine witnesses upon oath, and to decide upon their testimony. So that I would wish it to be distinctly understood that the office of a collector is a juridical office, and in many respects purely judicial.

3277. Mr. *Elliot*.] Is not the collector an agent of the Court of Wards?—Yes; he also keeps the general registry of the country. All lands must be registered, upon a change of ownership, in the books of the collector of the zillah, and he has to watch all transfers and alienations which take place, and see that no change is made in those tenures, and also that the parties who come before him are the parties who ought to be registered as the owners. He has very important duties also in regard to the separation of estates. In Hindoo families generally all estates are joint estates; the property is jointly held; therefore, as long as the property remains joint, the joint zemindary or talook is responsible for the Government revenue which may have accrued due or fallen into arrear in that zemindary, though it may have arisen from the default

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default of any one of those joint proprietors. But should one of them differ with his co-proprietors, and feel this as a burden to himself, he may arrange with them, and go to the collector and get a portion assigned to him, and the payment of revenue will be apportioned also; he may pay it into the collector's office, and by so doing he will secure that share of the property which that revenue represents.

3278. Mr. *Macaulay*.] Is not the collector also a magistrate?—He may be so, but ordinarily I think the offices of the magistrate and collector are kept distinct; they would have distinct powers, for this reason; in cases of affray where the magistrate is called in, he immediately refers the question, if it is one with regard to the right to the possession of land, to the collector, in order that he may judicially try who was in possession.

3279. Mr. *Elliot*.] Has not the collector also the charge of all endowments, and does not that give him an intimate acquaintance with the different descriptions of free grants, and with the religious customs belonging to those endowments?—Yes, both with regard to Mahomedan mosques and Hindoo temples.

3280. Sir *R. H. Inglis*.] While in popular ignorance the word "collector" might by some individuals be held to be equivalent to "custom-house officer," you wish the Committee to understand that the word no more describes the office actually held by the individual, with all its functions and all its powers, than the general term "writer" does the nature of the duties discharged by the civil servants of the East India Company?—Certainly.

3281. Mr. *Macaulay*.] In fact, the collector is a judicial officer having charge of a great many matters, which in England are assigned to the Lord Chancellor and other high legal functionaries?—Exactly so.

3282. Is it not the fact, that the amount of property which depends upon the judicial decisions of the collector is as great as that which depends upon the judicial decisions of the zillah judges?—In some cases it would be so, assuredly. His decisions, however, may be rectified by a proceeding, not in the nature of an appeal, but by an ordinary proceeding in the zillah courts, the courts of ordinary jurisdiction; so that while he exercises the powers which have been just mentioned, it is under a species of control, because if a party feels himself aggrieved by the decision of the collector, he may put it right by a proceeding in the court of ordinary jurisdiction.

3283. Sir *T. H. Maddock*.] Are not the decisions of the collector final if there is no suit brought into the zillah court against them?—They are. I omitted to refer to one peculiar species of jurisdiction given to the collector under the Regulation II. of 1819, and one of what are called the Resumption Regulations. A special jurisdiction was given by the Regulation which proceeded from the local Government in that year, which has been followed by other Regulations, which took from the courts of ordinary jurisdiction the power to try questions of La Khiraj lands or rent-free tenures, of which there are a great many held throughout India, some of them being held fraudulently, but a great many being held from Royal grants, or other grants recognised by the Mahomedan and Hindoo law, for religious purposes and others. It was found that the revenue might be improved by bringing in those which were so fraudulently or improperly held, or in cases where the parties could not prove their title to hold them. Regulations were made for the purpose of establishing a special jurisdiction, which was of this nature: a collector was to be authorised by the Governor-general, under the title of deputy special collector, to inquire into the tenures of a particular district as to these La Khiraj lands, and having so inquired, where his suspicions were excited that lands were fraudulently held, or held by parties who could not prove title to them, he had the power of summoning the parties before him, and calling on them to prove their title, and so a suit was instituted in which he himself acted as judge in that particular matter. I think that was wrong, because I think a man placed in that position ought not to have been a judge. He was, first, the informer; secondly, the prosecutor; and thirdly, the judge, with only an appeal from his decision to the special Commissioner of Revenue, there being no appeal from the Commissioner of Revenue to the Court of Sudder Dewanny Adawlut. We have cases now occurring before the Judicial Committee of the Privy Council arising out of this jurisdiction, where the appeal comes at once from the Commissioner of Revenue

Revenue to the Judicial Committee of the Privy Council, that is, in other words, to Her Majesty in Council, instead of going first to the other courts.

3284. Was not this special deputy collector appointed exclusively as a judicial officer for the purpose of trying those cases?—Certainly.

3285. The matter having nothing whatever to do with his duty of collecting the revenue, and the name "deputy special collector" being possibly a misnomer? —Certainly it may be so. The class from which he was taken was the class of collectors; but it was not because a man was placed in a particular district as a collector that he was clothed with this authority; he was selected out of that class to perform those judicial duties.

3286. Mr. *Mangles.*] Are you aware what the number of those cases was; was not the number very great?—Enormous.

3287. You object to the jurisdiction in those cases being taken from the ordinary courts; the courts being already full of business, would not the addition of such an enormous number of suits have imposed a great burden on those courts, and impeded the ordinary administration of justice?—I think it is most likely it would. My general belief is, that the active and zealous servants of the Company in those courts have at present as much as they can possibly do, and if you had thrown upon them so much additional duty, certainly it would have oppressed them; but still my objection is not so much to creating this separate jurisdiction as to clothing the person who was to be the informer and the prosecutor with the office of judge also.

3288. He was only a judge in the first instance was he?—Only in the first instance.

3289. The special commissioner undertook no part of the office of prosecutor?—No; the special deputy collector had the power to summon, and then to try, and to decide.

3290. Are you aware that officers of the highest station, and character, and experience were always selected for the office of special commissioner?—I am; I am quite aware that some of the highest and ablest men in the service, who are now sitting in the Sudder Dewanny Adawlut, were special commissioners. One of the Honourable Members now present was a special commissioner.

3291. Mr. Wilberforce Bird was one?—Yes.

3292. Mr. Richard Walpole?—I do not recollect him. I know that the men who were selected as commissioners to be engaged in that service were men of the first order.

3293. Have you any reason to doubt that their decisions were governed by principles of strict justice, and not by any leaning towards the Government?—They were men, I know, of the highest integrity, and unless there should have been any leaning towards those whom they immediately served unknown to themselves, they were men of such high character and honour that they would have scorned the idea of deciding a question in any other way than as it was right and just between the parties.

3294. Do you think that the Government of India gets more than fair play in its own courts?—I believe that the very fact of its being considered a hard proceeding has had among English gentlemen the effect of protecting those who might otherwise have been oppressed by it. The decisions have been in many cases against the Government, and I should say very much to the credit of the judicial service of India, which stands very high.

3295. Mr. *Ellice.*] You have had considerable experience in a situation independent of the Government and of the East India Company in India?—I have.

3296. Is it your opinion that the general impression upon the public mind in India, and especially upon the minds of the natives of India, is in favour of the general integrity and honesty of the servants appointed to the various judicial stations throughout India, and of the servants of the Company generally?—With respect to the side of India in which I was, I must say most assuredly that it is so; not only from my residence there, but from my position as a barrister of the Supreme Court, one of a body which is often placed by various circumstances in some measure in antagonism to the civil service of the Company, I have had opportunities which other classes have not of knowing what was going on in the courts in India. If there are complaints made, although those complaints might never reach the public through the courts, they would

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be brought to us for the purpose of ascertaining whether a sufficient case for redress could be established; those who were dissatisfied with the result would express their dissatisfaction; so that I know, both from the professional position which I held, and also generally from my intercourse with society, that the civil service of India stands upon the highest ground, both as to principle and integrity; where an individual judge fails, it is either from some personal cause, such as a defect of temper, which we are all subject to, or from mistake in law or error of judgment, and not from intentionally doing wrong.

3297. Mr. *Hume*.] You have spoken of the situation of the collector affording him opportunities of becoming acquainted with the natives; is not it the duty and is not it the practice of the collectors and their assistants often to visit the different villages and districts within their zillahs?—I believe, during the cold weather, it is the order of the Government that they are to proceed on such inspections. I made, myself, a tour to the Upper Provinces, before my return home, visiting the chief parts of Upper India; therefore I can speak from personal knowledge that in the cold weather they do proceed into the districts; they take their tents, and live entirely among the natives, and only with the natives.

3298. Mr. *Macaulay*.] You have, probably, repeatedly seen the tent of a collector in places where, except himself, with an assistant or two, there were no Europeans within 30 miles?—Yes; and in the towns where I have been, on going to see the collector, I have been told he was absent on such a journey, and could not be seen.

3299. Mr. *Hume*.] Do not those visits, which you have stated take place on the part of the collectors and their assistants, afford opportunities for becoming acquainted with the natives, which no other branch of the service can afford? —Certainly.

3300. Is it on that account you consider the education to be obtained as assistant to a collector to be one of the best which could be provided for the civil servants in the country?—That is one reason, but I think there are more; I think the proceedings of a collector, which are of a judicial character, are also adapted for that purpose.

3301. On the whole, you consider that no tuition, or course of training, would be equal to that which can be obtained by being assistant to a collector, and going through the various duties in that office?—Yes, without hesitation I say so. Let me at the same time state that there are very few offices which may be called initiatory offices into the business to be performed by the civil service in that country; and those offices are becoming fewer in India every day, in consequence of the employment of natives more generally. No doubt that employment is of itself a great advantage, but it does cut out the servants of the Company from preparatory offices, in which they might be trained to their duties.

3302. Mr. *J. Fitzgerald*.] In the collector's office would a young man acquire that amount of knowledge which is essential to his being a zillah judge?—Yes.

3303. Does he acquire a knowledge of the principles of law generally in the collector's office, or of the rules of evidence?—There is no school to teach the principles of law, but he has the means of applying the principles of law, and of seeing their application, by reason of the judicial duties which he has to perform. Of course, I expect that before he undertakes any office he will have received some schooling, if I may so term it; and at the College at Haileybury he is taught the general principles of law.

3304. For instance, will he have any opportunity in the collector's department of obtaining an adequate knowledge of the law of ordinary contracts, independently of contracts connected with the land?—With regard to the provinces of India, where those men are placed, cases of mercantile contract form a very small proportion of the cases which they have to decide. The matters which they have to deal with are not so much matters relating to what may be called contracts arising out of mercantile or general dealings, because the people who come before them are not traders, or engaged in mercantile pursuits, but persons in the situation of landlords and tenants, and of persons claiming rights of inheritance and succession, and other rights in or to land and property. The collectors have to decide contracts relating to rent, and engagements or agreements respecting the produce of land, and respecting its occupancy. The principle of decision upon such contracts is, however, the same

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same principle upon which you would decide contracts relating to goods. The main question is, whether a party is bound. Of course there may be collateral matters which would be peculiar to one and not to another, but the principle is common to both.

3305. Are the Committee to understand that in the zillah courts such questions are not of ordinary occurrence?—Not of such ordinary occurrence.

3306. The majority of the cases relate to questions affecting land, and the rights which arise out of it, and its alienation?—I should say, from my recollection, and from looking at the statistics on the subject, that three-fourths are of the one description, and only about one-fourth of the other.

3307. A previous witness has stated that questions relating to land tenures are exceptional cases in the zillah court?—For the very reason I have given, that questions relating to land tenures are within the jurisdiction of the collector. If the parties are dissatisfied with the decision of the collector in any case relating to land tenures, they have an opportunity of going to the courts of ordinary jurisdiction and there trying the title; but the very fact that that is seldom done shows that there is general satisfaction with the decision of the collector.

3308. Does it often happen that judges are appointed to the zillah courts who, though intimately acquainted with the law relating to land tenures, have not an adequate knowledge of the law generally, or of the mode of conducting a judicial inquiry?—I could not say that they have all the knowledge which might be desired.

3309. What remedy would you suggest for that defect?—Improving the present means of education. There are three things to be considered: there is, first, the preparatory collegiate education before leaving this country, which should have, no doubt, a view to their future professional business; secondly, the professional training when they reach India; and thirdly, the judicial appointments which they ought to hold, involving the question of whether they ought to be removed from those appointments when they have once taken them.

3310. Do you think that the members of a local bar, practising in this consolidated court which you have described, would acquire that amount of knowledge, both of general law and of the peculiar law of India, which would afterwards fit them to be zillah judges?—Most assuredly, as far as judicial and all practical knowledge goes. There is one thing, however, which is most essential to a man performing the duties of a zillah judge in India, and that is a knowledge of the vernacular languages.

3311. Mr. *Mangles*.] It has been stated in evidence that at Madras many of the judges are entirely ignorant of the native languages: what is your experience of the fact in Bengal and the North-western Provinces?—Quite the reverse of that; the only difficulty which sometimes arises is this, which can easily be obviated, Hindostanee is used in the Upper Provinces and Bengalee in the Lower. I have known inconvenience result from a man being removed from the North-western Provinces, to which he had been accustomed for many years, and where he has forgotten his Bengalee, though he may be a proficient in Persian and a proficient in Hindostanee, and brought down to Bengal, where he is placed in a position in which his Hindostanee and his Persian are of no use to him, and he finds himself deficient in Bengalee. Those are matters of detail, however; but with regard to the general question, I most assuredly say that the civil servants know the languages well. They may not know them all well, but they know some well.

3312. Mr. *Macaulay*.] Did you ever hear of a zillah judge who knew neither Hindostanee nor Bengalee?—No; and I am satisfied that such a case would be regarded as so extraordinary in that part of India with which I was connected, that I must have heard it.

3313. Mr. *Elliot*.] Is not it the case that the Hindostanee language is generally known in every part of Bengal?—Yes; I should say throughout India; it is the *lingua franca* of India.

3314. You can go into no court in India in which the Hindostanee language would not be perfectly intelligible to every officer of the court, and to a great many of the persons present?—I should say that that would be generally the case.

3315. Mr. *Lowe*.] What is the state of the law of libel in India; is it the same

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same as in England?—In the Queen's courts it is exactly the same as in England; in the Mofussil courts it is administered under the Regulations. I have known a case where a question arose out of the proceedings connected with the Rajah of Burdwan's property. In the course of those proceedings an attorney of the Supreme Court was grossly reflected on; he brought his action in the zillah court, and it was appealed to the Sudder Dewanny Adawlut. Those courts followed very much our own proceedings in cases of libel, and I believe the party was protected on the ground of the proceedings being a privileged communication.

3316. Is it your opinion that the law of libel in India is in a good state now, or do you think it requisite that a stricter hand should be kept over the press?—If I am asked for a private opinion on a political question, I think that the freedom of the press, unless you can put before the Legislature the prospect of an immediate injury to the State, should be preserved.

3317. Do you think, taking it as an established fact that the press is free, that the law of libel is sufficiently severe to curb it to the requisite extent?—I think so: you have the same check that you have in this country. It is required that every person who publishes a paper should record in the Government office his connexion with the paper; and you have the means, through the proprietor and publisher, of checking any particular paper which may disseminate libellous articles. The only way in which a question may arise is from the difference of the country, and the position of those who are in it from those who are in this country. I could not close my ears from hearing a judicial servant of the Company state in his evidence here, the other day, that he was in the habit of writing political articles in the papers against the Government; I should say in cases of that kind, of course the most stringent domestic rules which could be passed would be fully authorised, in order to put a stop to it. Having regard, however, to the general good arising from free discussion, I think, even in the case of their servants, the Legislature would hesitate to pass a law which would prevent the free dissemination and discussion of topics of general interest.

3318. Is not the license to the press in India much greater than to the press in England; does not it deal more with private and domestic matters than the press here?—As to the first, I would say I think not; and as to the second, I think that may arise from the fact that they have not the great matters to deal with which the press in England has; that habit is very much going out, because, from the rapidity with which news now comes out, the papers have not exhausted their stock of European news by one arrival before the next comes out.

3319. It is your opinion that there is no necessity for any increased severity of the law to keep the press in order?—Certainly; and unless it be of a domestic character, that is to say, for the purpose of increasing the control which the Government has over its own servants, I do not think there is any necessity for it with regard to the public.

3320. Mr. *Macaulay*.] Is not the circulation of English newspapers confined almost entirely to Europeans in India generally, and to natives at the Presidencies?—I should say that that is so as regards the English papers which are published; but then it must be recollected that throughout India native papers are circulated.

3321. The Act, which I myself drew up, which placed the press on its present footing, gave liberty only to printed papers; are the printed English papers generally read by the native community?—No.

3322. Is not their circulation almost entirely confined to a class of persons who cannot, in any conceivable circumstances, be supposed to be inclined to rise up against the English Government?—Assuredly their interests are bound up with the English Government.

3323. Would it be possible to conceive that the utmost license of the press in England could do any harm if nobody read the newspapers except masters in chancery, Directors of the East India Company, the judges, and justices of the peace?—Certainly not.

3324. Is not that class analogous to the class which almost alone reads English newspapers in India?—Certainly; but there is another class who are almost as intimately connected with the wellbeing of the Government and the establishment of our supremacy—those who are in an independent position like myself; with regard to another class, who are living and becoming wealthy under

under our Government, those who deal in the great staples of India, indigo and silk, and those who have European connexions, their interests are all bound up and united with the interests of our Government. *J. F. Leith*, Esq. 21 April 1853.

3325. And it is inconceivable that the utmost license of the press can ever lead any of them to join in a conspiracy against the English Government?—Most assuredly so.

3326. On the other hand, have not the natives a set of newspapers of their own in manuscript?—That I am not personally aware of; I know they have printed papers; I have seen some of those native printed papers; the natives are very fond of gossip, and their papers are chiefly filled with gossip; with regard to political questions, they may be brought forward incidentally as a part of that gossip, but I think the check which arises from English papers going in the same course in which they are to go to the different zillahs prevents any prejudicial effect that might arise from them.

3327. Sir *T. H. Maddock*.] Are you aware that those printed native newspapers generally contain translated extracts of everything of importance which appears in the English newspapers?—I know those in the Presidencies do, because, generally speaking, the men connected with the native press are almost English in ideas and notions; they receive their opinions, therefore, as much from the English papers as from others; but they very much belong to the class of traders in Calcutta, who, having received a better and a literary education, have become editors of literary papers.

3328. Mr *Macaulay*.] Do those papers go far into the Mofussil?—I recollect seeing one at Lucknow; it referred to my own journey to the Upper Provinces, which directed my attention to it. I was surprised that the movements of so humble an individual as myself should have been the subject of notice in the paper.

3329. If there were any extreme danger to the peace of society from the newspapers, could not four gentlemen, meeting in a room in Calcutta, pass a resolution for stopping the whole of the press in India?—Assuredly.

3330. Sir. *T. H. Maddock*.] Are you aware of the extent of circulation of those native papers?—I am not.

3331. Are you aware that in every large town in the Mofussil there are one or two native newspapers?—I believe so.

3332. And consequently there must be a very extensive circulation of those extracts from the English newspapers?—My own impression is, and I know the natives pretty well, that the natives would rather think it a very dull thing to be treated with a disquisition on English politics; they would be much more pleased with passing gossip than with disquisitions on Government matters.

3333. Are you aware that those printed native papers are read and circulated universally in the native army of India?—I am not aware of that.

3334. Are you aware that at the courts of the native princes of India, numerous English newspapers are taken in?—I am not aware of that.

3335. *Chairman*.] To return to the subject of the Mofussil courts, and the mode of the administration of justice in the provinces, are there any further changes which you would recommend?—I know there are great defects in those courts. There is one, which I think is a most important matter for consideration: I refer to the mode of taking the examination of witnesses. The present mode has crept in as a habit; but I believe it is opposed to the Regulations and to the desire of the Government; that is, that instead of the judge examining the witness, a native official may, perhaps, constructively in the presence of the court, but certainly not actually in the hearing of the judge, examine the witness; he may be sitting in one corner of the court, and therefore be constructively in the presence of the judge, but not within his hearing; he sits down, with two vakeels before him, and examines the witness; this native official takes down the examination; all that the judge has to do is, that, before it is signed, he calls up the witness and asks him if this is what he has stated; he says "yes," and he signs it; the judge may sometimes ask if anything is desired to be added. The proceedings in court are by plaint, answer, replication, and rejoinder. Great advantage would be obtained by a strict observance of the Regulation regarding those pleadings; the Regulation contains admirable rules for the regulation of those pleadings, but unfortunately, through the remissness of the judges, they are not observed; the plaint, instead of being

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being confined to a statement of the case of the party, is full of a vast number of extraneous and irrelevant matters, which have nothing whatever to do with the real matter in issue, and is argumentative; when the answer comes in, the answer is of the same character; then comes the reply; and the reply, instead of confining itself merely to answering the matter contained in the answer, again repeats, with extreme verbosity, that which had been stated in the plaint, with new arguments, if they occur, and other matters; and then again the defendant has a rejoinder; so that this, in fact, makes a vast deal of unnecessary business for the judge: it encumbers the record, and it has been felt as a matter of such difficulty in the Privy Council lately that their Lordships have thought it necessary to institute an inquiry how they can cut down that immense load of unnecessary matter which now encumbers the record in coming over to this country. Having got so far with the pleadings, the judge settles the issues between the parties, so that it should be clearly understood to what the evidence is to apply. He directs that evidence should be brought forward as to those issues which are settled by him, the vakeels being present. He ought to enter the issues upon the record at that time, that the parties may have full notice what is to be tried, so as to bring forward their witnesses and their documentary proofs. Then comes the examination of the witnesses, which forms a separate and distinct matter altogether from and takes place before the hearing, and that is the examination which I have objected to; because, instead of the judge having all the advantage of seeing the witnesses, and the manner in which they give their evidence, and observing all those important matters which guide the mind of a judge, and which are so essential in order for him in every case, especially in India, where there is always conflicting testimony, to judge of the value of the evidence, he loses the whole of that assistance, and he has merely to read the evidence in a written form, as an appellate court would do.

3336. Sir *J. W. Hogg.*] Are you aware that an Act either has been passed, or is under consideration, requiring the zillah judge to take all the evidence of the witnesses *vivâ voce*, exactly as you have suggested, thereby doing away with the old system of written depositions?—I was not aware of that.

3337. Mr. *Macaulay.*] Do you conceive that it would be possible, by introducing, to some extent at least, a system of oral pleadings, to diminish the evils which you have mentioned?—That, no doubt, would be an advantage in many cases; but it might have inconveniences in other cases with regard to natives of rank, who would think it derogatory to them to come into the courts. They have now the power of being heard by their vakeels, the doing away with which might interfere with very important considerations with regard to position and rank and caste.

3338. *Chairman.*] Would you recommend that the use of the English language should be made compulsory in the zillah courts?—I am very much indeed against it. I think it would interfere very much with the proper administration of justice in the Mofussil: but the chief objection to it would be this: it is not only essential that we should do justice, but that the natives should know and believe that we do so; and therefore, though there might be advantages arising from having a trained and educated English judge, one who has passed through some of the ordeals that a barrister must go through, I think, after considering the question most closely in all its features, and with regard to the particular circumstances in which such a judge would be placed, I could not conscientiously advise an English barrister to be taken from England to be placed at once in the position of a judge, so that it should be rendered necessary to introduce the use exclusively of the English language into the Mofussil Courts.

3339. Would you make it incumbent upon those judges, and in what cases, to employ juries?—I think that would be very difficult to be carried out in many cases; and I should never advise a law to be passed which it would be difficult to give effect to. I know so well the apathy of the natives, that I am persuaded there would be the greatest difficulty in getting them to act upon juries, unless they themselves had an immediate personal interest in the matter; and if that interest led them to act, I should think of course it would be better that they should not be there. To pay them for coming would not probably be consonant with our ideas of what is right.

3340. The option in many cases exists of having a jury now, does not it?—Yes; it is entirely in the breast of the judge, whether he will avail himself of it

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or not. They have the punchayet, which is more in the nature of arbitration, where the judge has the power to refer the suits or points in dispute to natives; they decide out of court, and send in their report. Another case is where they sit with him as assessors on the judgment-seat, giving him their observations as the case proceeds, and so enabling him to decide upon the case; that is particularly used where there are native accounts to be looked into. The third case is where they give a verdict, and there sometimes great dissatisfaction arises; these men are invited to attend, and after they have attended, and given their labour and time to the inquiry, when they have given their verdict, the judge sometimes does not make use of it; and they think that not complimentary, and therefore it prevents in some measure the working of that system.

3341. Would you make any change with respect to the present magisterial duties?—That opens a very wide question with regard to the power which those magistrates may have over British-born subjects, and as to the general criminal law of India, whether the whole country should be put under one criminal law or not. If there is to be a magistrate having jurisdiction in the first instance, I think it would be wise to institute something in the nature of a quarter sessions, which migh be easily obtained without any additional expense, by associating together the zillah judge, the magistrate, and the principal sudder amin. From a magistrate there might be a writ in the nature of a *certiorari* to bring the proceedings before him to this tribunal; I think that even British-born subjects in the neighbourhood might not object to such a tribunal, with such improved Court of Appeal at the Presidency. It has hitherto appeared to me, that one great difficulty in the introduction of a criminal law into India at the present time, results from the species of antagonism which arose many years ago, and still more or less prevails between those British subjects, with respect to whom principally this question of criminal law would apply, and the covenanted servants of the Company: I refer to the indigo planters, and those who are engaged in the great manufacturing and trading staples of the country. There has hitherto been a very great division and separation among those two classes. From this, in some measure, has proceeded a feeling which is not such as to lead to a harmonious working among those who, as British subjects, ought all to have one object in view, viz., the due administration of justice. That feeling arose probably, in the first instance, at the time the civil servants of the Company were prevented from trading. They originally traded, and when they were prohibited by the Government from trading, a new class of people came in to occupy their indigo factories, which has given rise to the sort of feeling which now prevails; and there is more separation between those classes than there ought to be, having regard to the well-being of the country. With humble deference, I would suggest one means by which, I think, the wall of separation might in some measure be removed. Give to those among the manufacturing class who are now educated men, and in a position of respectability, and able to fulfil the duties of the office, the powers of honorary justices of the peace, and you would give them immediately an interest in the administration of justice. The Government have, in Calcutta and its neighbourhood, extended the commission of the peace to other than the paid magistrates, and have made them honorary justices of the peace. I would make these men in the Mofussil justices of the peace, so as to make them responsible, and lead them to feel their responsibility, for aiding in the administration of justice. I would suggest this also: that at the quarter sessions they, as honorary justices of the peace, might take their seats beside the official members of that body, so that they might see that justice was administered and be inspired at the same time with confidence in it, and led to feel that they are a part of the machinery for the administration of justice throughout the country. I think a great amount of moral aid would be given everywhere to the official members of the Government service, if something of that kind were adopted. I was in India when the discussions took place, first with regard to Act 4, of 1843, with respect to removing the jurisdiction from the zillah magistrate into the ordinary courts, in cases of trespass and assault by British subjects against the natives; and I have become intimately acquainted with the very strong feeling which has prevailed against the introduction of a general law for putting European subjects, in criminal cases, under the courts as now constituted of the East India Company; and I think that a great barrier, which now stands in the way, would be removed by

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by that suggestion which I have taken the liberty of bringing before the Committee. You must in the first place improve the courts, I think, as far as you possibly can. They will improve themselves more, after you bring British-born subjects within their jurisdiction; but I do think that, before you place them under the jurisdiction of those courts, you are bound to improve the courts as far as possibly lies in your power, and then I am sure they will improve themselves subsequently.

3342. Mr. *Mangles*.] Do you think it would be safe to entrust such magisterial powers to indigo planters, who are so constantly engaged in disputes with their brother indigo planters as to lands, and also involved in differences with the ryots about the cultivation of those lands?—I have well considered those difficulties; I believe that the exercise of those powers, and letting them feel that they were responsible ministers of justice, would have very much the effect of lessening the duties of the magistrate in respect of those very offences which are referred to. First let them feel that they are responsible ministers of justice, and then visit any offence that they may commit in the strongest way the Government may think fit; but I think those disputes themselves would be very much reduced in number, if not entirely prevented, by that means. If any question arose in which a party himself was concerned, of course his own powers would not be to be exercised in the matter.

3343. Mr. *Macaulay*.] Was not it the fact that, while the Company's servants continued to be concerned in trade, very frightful oppressions were the consequence?—No doubt that was so in the first instance, with their peculiar power powers and the state of the country then; but the persons who are now the heads of the indigo plantations are a very different class from what they were in former days, and may be, I think, entrusted with the limited powers of honorary justices of the peace.

3344. You were referring to the time when they were prohibited from trading; was not that the result of the oppressions which had arisen from the circumstance of those merchants being armed with the powers of the Supreme Government of the country, and using the powers they possessed as public servants for the purpose of asserting their own rights as creditors?—I am not aware of the fact but from historical knowledge, but at those times, certainly, being Government servants gave them an advantage in coming in contact with the regular trader; not only would they have what might be called a legitimate advantage in going into the market, but I think it would also give them an illegitimate advantage, in being able to obtain for less money their goods and factories from those who thought they might obtain benefits from them in the exercise of those functions as Government servants in the offices which they were allowed to carry on. With respect to oppression, I do not recollect any instances of oppression further than those which were connected with the establishment of the Supreme Court. The Supreme Court was established for the purpose of controlling those British born subjects who were the servants of the Government at that time. The Supreme Court was originally established with the jurisdiction which it has now over all British-born subjects in the country who were the Company's servants, for the purpose of protecting the natives against them.

3345. Do not you think it possible, that by arming a considerable number of indigo planters with the power of the magistracy, you might possibly produce a renewal of something of those former scenes?—I would not give them the power of magistrates in the sense in which that term is used in India. All officers of justice, strictly speaking, are magistrates; but I speak of them only as justices of the peace, intending only that they should do that which an honorary justice of the peace would do in England, having merely initiative powers, the power of taking evidence, and sending up the depositions to the magistrate, the criminal judge.

3346. Mr. *Elliot*.] Does not it frequently happen now that the natives refer to indigo planters of respectability to decide their cases?—Assuredly; that is within my own personal knowledge; they very generally act as arbitrators in the district in which they are situated. The natives are well pleased to take the opinion of an educated indigo planter instead of going to the court.

3347. Where that practice prevails, a great many cases are referred to such persons, are they not?—Yes, by the natives themselves.

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3348. Sir *T. H. Maddock.*] Have you ever visited the district of Tirhoot?—No, I have never been in Tirhoot.

3349. Have you ever heard that in that district, where the indigo planters are very numerous, they have established such a court of arbitration among themselves, as to prevent any suits whatever of a criminal nature appearing before the magistrate?—I was not aware of that.

3350. Mr. *Hume.*] You have alluded to the new zillah courts; how far, in your opinion, ought the natives and the Europeans to be placed under the same laws in every part of the country?—I think it would be a great good if such could be done. At the same time, we must have reference to the question which arises as to the distinctions which exist in point of religion; but that, I think, presents no impossibility; it is only a matter to be kept in view, in order that the Legislature may regulate whatever they do in reference to it.

3351. Would not that distinction between Hindoos and Mussulmans apply more to questions of property, and those particular matters which are regulated by their own laws, than to the administration of justice as connected with the peace of the country?—Certainly. Since the establishment of the Company's rule in India, since they acquired the Dewanny in 1765, Warren Hastings, and the members of the Council, under the direction of the Court of Directors, made an inquiry, and reported the result of that inquiry as to the constitution of the Mahomedan courts as they were then established. In that report they shewed what was the state of the Mahomedan courts, a reference to which certainly will bring into very favourable contrast the state of the administration of the law in India at the present day. Although some persons are fond of drawing invidious comparisons between what is now the state of the administration of the law in India, and what it was in the time of our Mahomedan predecessors, the contrast appears striking, and very much in favour of the courts as they are now constituted, and the administration of the law in them, as contradistinguished from its administration in the Mahomedan courts which preceded them. In the report which was made by Warren Hastings and the members of the Council, as to what the constitution of the courts should be, they recommend that, as far as possible, the usages and customs of the natives should be observed; and one of the things which they advised was, that in administering the law they should have, in all matters of inheritance, marriage, and caste, and in all suits regarding their religious usages and institutions, they should have their own laws administered to them; the Hindoo law to the Hindoos, and the Mahomedan law to the Mahomedans. Then Lord Cornwallis's system came in, and in the new regulations which were made in 1793, the same principle was observed; in the great regulation of his time, which regulated the constitution of the courts and the administration of justice, it was adopted; and there is still this same exception, that in all cases between Hindoos and Mahomedans the law of the defendant shall prevail. The word "contract" does not appear there; it is only in cases of inheritance and succession to property, and cases of marriage, adoption, and caste. With regard to contracts, therefore, the courts of the Mofussil have been unrestricted, and they have had no law to decide by, except what they could derive from the customs and usages of the people. The Supreme Court also has been confined to administering those customs and laws; with this addition, that the English statute, the 21st of George the Third, directs that the Supreme Court shall administer the Mahomedan law to Mahomedans, and the Hindoo law to Hindoos, in all cases of inheritance, succession, marriage, and so on, and in all cases of contract and dealing; so that the constitution of the Supreme Court differs from the others in that respect. I should say that, in any legislation in regard to the natives of India, the same distinction should be kept in view, with the exception of that in which the Supreme Court differs from the others. I do not see any necessity for giving them any particular law as to contract and dealing, for this reason: having read carefully the Hindoo law and the Mahomedan law, and knowing the Roman civil law, and knowing, also, the basis of our laws of contract in England, I am able to say there is very little material difference among them; and as I believe the principles of the Roman civil law proceeded from the East, and as I find the Hindoo law was there reduced to writing in the 12th or 13th century before Christ, it is not surprising that we in it find something analogous to that which we find existing afterwards, and to what was introduced into the code of Justinian in the year 600 after Christ. I apprehend there will be no difficulty, even in the matter of contracts,

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contracts, in finding common principles among the whole which might form the basis of a uniform system for the administration of justice on that subject, not only among the Hindoos and the Mahomedans, but among other classes, such as the Armenians, who have long prayed to be relieved from their anomalous position of having no law, and who wish to have their contracts and all their affairs regulated by the English law, and the other tribes or classes who are there, as well as British-born subjects.

3352. Sir *T. H. Maddock.*] Are you aware whether those principles which you have explained as having been laid down for the guidance of the British Courts in India, have been followed up to this date?—Certainly; that, however, has been materially affected by an Act of the local Legislature, Act 21, of 1850.

3353. What was the nature of that Act?—That Act has placed the heir of the Mahomedan or Hindoo in a different position, with regard to property, from that in which he was placed by the Hindoo and Mahomedan law; and has so far altered their respective laws of inheritance and succession, by having declared that no man should, by reason of the change of his religion, be deprived of his property. There are, however, three classes to which the law applies: first, to one who has been excluded from the communion of any religion; another who may have excluded himself; and I think the third is one who may have lost caste. So that, in fact, having regard to the original Act, which is pointed to in this Act, 21 of 1850, viz., the Act of 1832, Act 21, of 1850, which introduced a change into Bengal for the purpose of protecting a class which is increasing daily, that is, native Christians, and providing that they should not be losers by their change of religion, has, at the same time, introduced a new class of persons to the benefits of the Act, who may not have changed their religion, and as to whom the question of religion does not occur; and to whom the right to the family inheritance, or to those privileges and interests in the property which by the Hindoo law they would otherwise be excluded from, is retained. The effect of it would be this: if a Hindoo widow, who is entitled by law to succeed upon the death of her husband, without sons, as the heir of her husband, and who is entitled to reside in the joint family house, were to become a prostitute, but remaining a Hindoo, she would still be entitled to hold the property, and also be entitled to remain in the joint family house with the other females.

3354. Has that change in the law been considered very injurious to the Hindoos?—The Hindoos have felt it very strongly, and have characterised it as a breach of faith on the part of the Government with the Hindoo community, because they considered that their own laws with regard to inheritance and succession were guaranteed to them by the Indian Government, and by the Imperial Government in the Act of the British Parliament, and the Regulations of the East India Company. Several thousands of Hindoos have petitioned Parliament for the repeal of this Act.

3355. *Chairman.*] You would recommend that a uniform system of civil law should be applied to all except Hindoos and Mahomedans?—Yes. It would require great care in the preparation of such a system of law. The men engaged in preparing it must be well acquainted with the necessities of India, and the people there, in order to do it well. They must also be men of enlarged mind, and having an extensive knowledge of the practical working of laws in order that it might be carried out. With regard to the criminal code, one was made, though that never has been brought into operation.

3356. Sir *T. H. Maddock.*] Are you of opinion that in any future legislation for India it will be desirable or necessary for Parliament to pass any resolution or any law confirmatory of those rights which the Hindoos and Mahomedans have considered themselves entitled to since the time of Warren Hastings?—I should say, if my opinion is asked, that I think they have a prescriptive right to the use of their own laws. From the very first establishment of our courts this was recognised as a right which they were entitled to; and that was only following up what had been done by our Mahomedan predecessors, for it is quite clear, with regard to the Mahomedans, that they allowed to the Hindoos the free exercise of their religion and their laws in all matters connected with inheritance, succession, marriage, and caste.

3357. Mr. *Macaulay.*] But they brought in their own criminal law?—They brought in their own criminal law.

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3358. Mr. *Mangles.*] You would not desire that Hindoo laws and customs should be upheld where they are opposed to the principles of natural justice and reason, would you?—Certainly not; but that is a very wide question. With regard to natural justice and reason, I take it that that is not natural justice and reason which any particular individual may consider to be so, but only that which is agreeable to those universal and fundamental principles which are to be regarded as the foundation of the science of natural law. I at once say, as a lawyer, that no law should be in contradiction to those fundamental principles which are the test of the excellence or the defects of all positive law. The Hindoo law and Mahomedan law were not in this respect opposed to natural law.

3359. Take the case of suttee, for example?—Suttee is not required by the Hindoo law.

3360. The sacrifice of infants at Saughor?—I doubt that too; Professor Wilson has stated that it is a mistake of construction, and that in the Hindoo law there was nothing known higher than the sacrifice of a horse; that human sacrifices were not known to the Hindoo law. Those, however, are particular usages introduced from time to time, and are distinct from those fundamental rules which regulate the domestic rights of the Hindoos—marriage, and all the rights which flow from it. These last are matters totally different from the modes of expressing their particular religion, which are dependent upon particular usage.

3361. Do you think it equitable that a man should lose his patrimonial inheritance because he changes his religion?—I would say that the condition upon which he is entitled to it must be considered; as among the Romans, the Hindoo son has the right to the inheritance, and he is liable for the debts of the father; it is by reason of the family worship, as in the case of the Romans, that this heir is pointed out as having a right independent of the father, in order to carry on the religious worship of the family. With regard to the Hindoo, he thinks his soul is redeemed from "put" or hell by his son; the name of an adopted son points to that, and it is by reason of the benefits to the soul of the deceased and his ancestors which the Hindoo son can secure that he is entitled to be heir. Therefore it is, as it were, a condition annexed to the soil or to the inheritance that he should be in a situation to perform those duties and ceremonies which give him his claim to the inheritance, and if he has incapacitated himself for the performance of those duties, it is not the law that has taken it from him, because by reason of his own act no right has accrued to him. I do not consider this a religious question, and I would guard myself against being supposed so to argue it. In India I supported the missionaries to the best of my humble ability, both with my purse and with my professional advice; I was their adviser on many occasions, and in every way their friend. But this, I think, was a short-sighted policy; it was man trying to do God's work in man's way, not in God's way (wrong should not be done that good may come), and I think it has rather thwarted the object which all who are anxious for the spread of Christianity in India have in view. I say further that they have not followed the Gospel in it; Christ said, "Leave all and follow me;" they say, "Take all and follow me." I say it would have been a better proof of conversion that a person should be willing to leave his family property than that he should take the family property when becoming a Christian. Injury is thought to be done to the father and to all those who look to the Hindoo son as the means of securing these important spiritual benefits to them; I do think, both as a matter of policy and as a matter of principle, the Act in question was unauthorised and unjust.

3362. *Chairman.*] How are the questions which arise between native states determined, questions not of political but of positive law?—A very great inconvenience has arisen, to my own knowledge, from the want of a tribunal for that purpose. In consequence of the British Government being the paramount authority, and the whole of the native states being, as it were, a republic of states, who would, if there were no supreme controlling authority, decide their disputes by appealing to arms, it was necessary that there should be some influence exercised by the British Government, and in all questions of dispute those states have to refer to the British Government for its decision. In many cases those disputes arise, not as disputes of a political character, in which case I should be very sorry to interfere with any legitimate exercise of the authority

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authority of the Government, but from questions purely of a legal character, on which the resident at the Court, and after the resident at the Court, the Governor-general in Council, is called on to decide without having the means of doing so; a duty which I should think they would be glad to relieve themselves of. To give an instance, I will refer to a case which I am myself acquainted with, affecting the interests of one of the first independent states in India, the Rajpoot state of Joudpore. The present Rajah of Joudpore was elected according to the customs and usages of the Rajpoots, by the Ranee and Sirdars, Rajah of Joudpore. When he was elected the Rajah of Eur laid claim to the Raj of Ahmednuggur, the Rajah of Joudpore's family Raj. The claim was met by showing that there had been an adoption by the widow of the late Rajah of Ahmednuggur of the eldest son of the Rajah of Joudpore. The first question was one of a legal character, of mixed law and fact; first, as to the fact of the adoption; and, secondly, as to whether it was a legal adoption, the Ranee having adopted a son of the brother of her deceased husband. The Rajah of Eur also claimed the Raj on the ground that it was a lapsed fief of Eur. It was, on the other hand, denied that it was a fief of Eur. Those several questions of law and fact upon which the whole turned were decided by several residents and political agents at Joudpore, Colonel Sutherland at their head, in favour of the son and family of the Rajah of Joudpore to hold their family Raj of Ahmednuggur. Those were on the Bengal side, and one Resident on the Bombay side decided the other way; but the case was sent down to the Governor-general in Council, and he confirmed the opinions of Colonel Sutherland and others, in favour of the family of the Rajah of Joudpore. The question was subsequently reopened, and the Court of Directors were referred to. They directed that the questions of law should be decided by the law of Guzerat. Now, with all deference, that was a mistake, because in the Rajpoot states, the laws and customs of the state where the case occurred should have prevailed, and not the territorial law of Guzerat. The Governor-general in Council referred the case to the Bombay Council, and it was referred to one of the members of that council, who decided the case against the family of the Rajah of Joudpore, to the effect that there was no adoption; that the adoption of the son of a brother was a bad adoption; whereas, by the Hindoo law, they were bound to adopt him; and as to the fief, they dealt with it thus: that as the Rajah of Eur had been disappointed in not being elected to the Raj of Joudpore, it was but justice that he should get the other Raj of Ahmednuggur; the whole case of that Raj has, therefore, come to this country for the purpose of the Joudpore Rajah's obtaining justice, this decision having raised a very strong feeling in one of the most important independent states in India.

3363. To what tribunal would you refer such cases?—The Governor-general might refer them to the Sudder Dewanny Adawlut, where counsel might be heard; and if their decision were not satisfactory, there might be an appeal to Her Majesty in Council.

3364. With regard to the present state of education and training at Haileybury, do you consider that that is well calculated to fit young men for the judicial offices which they are destined to occupy?—I think there are very many advantages attaching to Haileybury as a separate training establishment; that the course of instruction there may be improved, I certainly think; but it would be rather in matters of detail than in what may be called its general principle. I think that the particular subject which I am more particularly interested in as the law professor, might become a more prominent and important feature in the curriculum of study; I think it ought to be made essential that all the young men should not only pursue the study of the law, but should qualify in it before going out to India, whereas the education is now chiefly directed to securing their qualification in the Oriental languages. The study of the law has been made subordinate to the Oriental studies which are pursued at the College at Haileybury, instead of being made so important a branch as I think it ought to be in the professional education of the civil servants. I think there is no office to which a civil servant can be appointed which does not partake of a juridical character, and very few offices which have not a judicial character attached to them; nothing, therefore, can be of greater importance than that those who are to occupy them should have at least a thorough knowledge of the universal principles of natural law, and of the general science of jurisprudence.

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3365. Mr. *Macaulay*.] You said that the office of the collector afforded a very good means of training for the judicial office, on account of the great extent of really judicial business which is there transacted?—Yes.

3366. It follows from that that a judicial education is of great importance to fit a person for employment in the Revenue Department?—Certainly.

3367. *Chairman*.] Is it, in your opinion, necessary to have a distinct place of education like Haileybury, to fit young men to occupy judicial situations in India?—I think it is beneficial. With regard to the particular studies which it is necessary a young man should go through, they can be advantageously pursued there. With regard to my own department of the law, independently of that general knowledge of jurisprudence which I take care the young men shall have, I endeavour to make them acquainted with those peculiar laws which they will have to administer in India, and I show them the books where they will have to apply for that law when they go there, and I make them acquainted with the constitution and jurisdictions of the courts in which they may be called on to act. I do not give them technical knowledge, but I give them practical knowledge; that is, the application of principles. I take, as illustrating those general principles of jurisprudence, the Roman civil law and the English law as the best exponents of those principles of universal jurisprudence, and I then show them the analogies between their principles and those of the two laws which they themselves will be called on to administer, the Mahomedan and Hindoo laws. I believe it is the object of the Court of Directors, that a legal education of that kind shall be given to those who are proceeding to India. If it is to be made a test before young men proceed to India that they should have a knowledge of law, I do not see why the men who go out from Haileybury should not be as qualified to fill the positions which they will hold in India as if they had been called to the bar.

3368. From your knowledge and experience in India, are you of opinion that the plan of education pursued at Haileybury should be maintained, with any practical improvements which may be introduced?—I think so, for this reason: I think the very system itself is advantageous in this way; we must look at India, and at the position which a civil servant of the Company occupies there; it is to a great extent a peculiar country, and one of exile; a young man is sent out to a distance from his friends, or family, or connexions; now he has at Haileybury established friendships and connexions before he goes out. He proceeds cheerfully to India, not as a solitary and isolated individual, nor as going to a country where he will know no one, but the connexions which have been formed, and the competition which has been begun, will follow him, and be carried out in India with the most beneficial effects. I think we are not sufficiently aware of the moral influence which their education together and association at Haileybury produces upon the members of the Indian civil service as a body, in giving them the high tone and character which they now possess. Think of the temptations which there are in India! A man proceeds to an isolated position, without any person to overlook him, separated from his own family and connexions, and those who would exercise a control over him. The person who goes out from Haileybury proceeds to and among friends, those who are known to him, who will afford him advice, assistance, encouragement and support, and who are at the same time watching him. There is an "*esprit*" on his part as regards the class to which he belongs, that he shall do nothing dishonourable to it. I think there is a most beneficial moral influence exerted over every man who goes out from Haileybury, from the fact that he has been educated there among the members of his own service, and that there has been formed a common bond of union between himself and the community of which he forms a part. Whatever may be the faults of the present system of appointing to the service the effect is extremely good. After a severe examination and testing of the capacities of the several students now at Haileybury, I can conscientiously say there is as good raw material among them for making judges, statesmen, and legislators, as will be found in any institution in the kingdom.

3369. Mr. *Hume*.] Do you consider that the separation which characterizes the students intended for the civil service in India at Haileybury gives them a sufficient knowledge of the world generally; do not you consider that an intercourse with other classes might tend to prepare them for the important duties they have to perform in India better than the secluded system which is now adopted?—That question might possibly arise, but if we really look at the system

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system which is pursued at Haileybury, I do not see that they are shut out from those advantages which have been referred to, because they are not kept there as monks: they do mix with the world: for a certain portion of each year they are with their families, and with the world; therefore, you have all that which the question points to, and you have something beyond, namely, a particular training with reference to the particular situations which they are hereafter to hold.

3370. Supposing the same young men to be placed in the University of Oxford, or of Cambridge, in daily intercourse with students of all classes, do not you consider that there would be a better opportunity afforded to young men intended for India of finding their own level, and acquiring a greater amount of knowledge than that afforded to them at Haileybury?—That mode of comparing oneself with another which the public institutions give, has been obtained by many of the young men who come to Haileybury who have previously been at public schools: but I think that the numbers even at Haileybury are sufficient to give that advantage. It is not like a small school; it is a large collegiate institution. If a man is at the University, he does not mingle with the whole University: he only mingles with a portion of it. If then the institution at which he is placed is sufficiently large to enable him to have certain advantages, it does not require to be larger.

3371. Is not it the fact, with respect to all those who are now at Haileybury, that they form as it were one class, their studies being directed to one object, and their intercourse therefore all tending to that object, and not to the general affairs of the world?—I think a man learns very little of the general affairs of the world while he is at the University; that is all to be gained afterwards. But with regard to association and the benefits that arise from rubbing one against another, and the competition which results from it, which we look for in public institutions, those are all available at Haileybury. I think the system might be improved if the students did not come there so young. I think no one ought to be sent there under 18. I think a man ought not to go out to India till he is 21, and I am satisfied that the Government would gain, in geometrical progression, by the advantage which would be derived from young men proceeding at that age above what it would lose by the year which would be deducted from their period of service. One year at that time of life is of the utmost consequence, and if it be a question as to the age of the individual, it would be far more advantageous to the Government to cut one year off from the service in India and add it to the commencement than to send them out at the same age at which they are now sent out.

3372. Mr. *V. Smith.*] Do not you think, on the other hand, that if those young men destined for India were educated at the University of Oxford or Cambridge, with young men engaged in other pursuits at home, many of them might become dissatisfied with the prospect of their exile in a foreign country?—I do think so; I began by stating the advantage which I think results from a man going cheerfully to his business, as a man from Haileybury does: he says, "I am going to meet those I have already been associated with; I shall not be without assistance or support, because I shall have my friends about me."

3373. Mr. *Macaulay.*] You know the system at Oxford and Cambridge?—Yes.

3374. Do not you believe that if you sent the young men intended for India to Oxford or Cambridge, every one of those who distinguished himself very highly there, who was likely to be a double first-class at Oxford, or a senior wrangler at Cambridge, and who saw before him a provision for life in a fellowship at Trinity, at Cambridge, or some similar situation at Oxford, would immediately throw over the service, and that it would be only the dregs of the young men whom you sent that you would get out to India at last?—I do think so; I see the same feeling working daily; men who are come to a certain time of life say, "I would rather work and take my chance in my own country than go abroad." The beauty of the present system is, that the mind is trained to this particular object. They look forward to it as the great object, the *summum bonum* of life, instead of taking it only as an alternative.

3375. Mr. *V. Smith.*] Is not there this advantage at Haileybury, that most of the young men educated there are on an equality as to fortune; whereas the great danger at Oxford or Cambridge is, that a person of moderate means may be led

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led into great extravagance?—Yes. From my knowledge of Haileybury I can state that there is more of supervision exercised there over the individual students than there could be at a university. We bring into operation the office of the tutor, as well as that of the professor.

3376. Mr. *Mangles.* Would you find at Oxford or Cambridge, as at present constituted, those means of instruction for young men in law and political economy which are now found at Haileybury?—No, the system must be altered. They are not regarded as essentials there.

3377. The Indian students, therefore, would be so far a separate class, either at Oxford or Cambridge?—Assuredly, if they went there for the purpose of a particular training. Haileybury has not had, I think, its full and fair trial, when we have been considering what the benefits arising from the education there are. When a student proceeds to India, it has hitherto been the custom to keep him at the Presidency town. He remains there for a year or two, till he passes in two languages. He lives at the Presidency town, where English is the language of the place, and society is in a very artificial state, and where people are living luxuriously on high incomes. In this place he is kept without any instruction in law, so that everything which he has been receiving at Haileybury in that department must, to a great extent, be lost. And not only that, but I think his residence there is morally prejudicial; he is taught expensive habits. He will proceed to a quiet isolated zillah station far from the metropolis of India; therefore it must be with regret that he leaves, and it is fortunate if those regrets do not continue with him. Instead, therefore, of promoting and perfecting the training and education that he has received at Haileybury, such a residence at the Presidency towns throws a difficulty in the way. Then with regard to the native languages, Calcutta is not the place to teach a young man the native languages; he may as well be taught them in London, for any advantage to be obtained from communication with the natives, where all speak English; therefore I would suggest that the same plan should be adopted in the civil service as is adopted with regard to the military servants of the Company. No cadet is allowed to remain in the Presidency town. The Adjutant-general does not know to what corps he will be posted ultimately, but he is immediately attached to some corps in the Mofussil, where he begins his study of languages among the natives, acquiring at the same time that which he could not so well acquire in Calcutta, a knowledge of the customs, and habits, and institutions, of the people, and of his own business; and I see no difficulty in at once attaching a young civil servant to a judge or collector in the Mofussil who will see that he pursues his studies there, and proceeds at the usual time to pass his examination, which a cadet has to do before the district committee who are appointed to examine him.

3378. Mr. *Ellice.*] Are not there great complaints of the effect of those dangers and temptations upon cadets, even during the short time they are now detained in Calcutta?—That may be well supposed with boys going out there, and left at liberty as they are. Cadets, however, are allowed to remain so short a time, that there could by no means be the same evil effect produced upon them as upon the civil servants.

3379. Mr. *Macaulay.*] Are not the temptations of a civil servant much greater than those of a cadet, in another way; does not he find it much easier to get money lent him?—No doubt, though that facility is not so great as it was in former years. That pecuniary assistance, too, may come from the natives: and whatever may be the amount of interest yielded, the native will not look to that alone, as that which he must be repaid, but he will look to the position which the civil servant will have eventually.

3380. Mr. *Ellice.*] Would not it be desirable, in your opinion, to devise some means by which the great evil arising from the facility of obtaining money by young men should be put an end to?—It would be very difficult; it might then be made a question of honour. You might apply the law with regard to infants to men grown up, but I do not think it a politic course; a better check would be the domestic check which a master, the Government, has over his servant, rather than to introduce any law which would make such debts legally invalid. Then you would place your servants in this position: they would have an honourable debt which every man of proper feeling would look on as a matter of honour to pay; and if he did not pay it he would lose his character, while he would gain the money.

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3381. Sir *T. H. Maddock.*] Would you consider it any objection to the appointment of a gentleman to the civil service of India that he had been called to the bar in England?—It would ill become me to say so, and I should say, certainly not. I consider it an advantage and an honour to belong to the bar, instead of a disqualification.

3382. If the amalgamated or consolidated court which you have suggested, should be substituted in the place of the present Supreme Court and the Sudder Court at the Presidencies, there would, of course, be a greater number of gentlemen than at present practising as barristers; would you consider it desirable that some of those gentlemen practising as barristers, should be not only barristers-at-law, but also members of the civil service?—I think it would be an extremely good thing, if the service will admit of it; but I know that the wants and requirements of the service are such that it would scarcely admit of those who are preparing and prepared for that service, going through an intermediate preparatory course of legal practice, knowing how difficult it is to obtain practice even when a man is qualified for it. A man may be very well qualified for deciding particular cases in the first instance, and yet not have those qualifications which are essential to a successful advocate; and unless he was employed he would gain no sufficient personal or practical knowledge. There would be this inconvenience also, that he would have an excuse for staying in the Presidency, where he would be learning nothing, without any benefit arising to the State from his doing so. I know it has been recommended that young men should attend at the Sudder Dewanny Adawlut; but from that it is clear no advantage could accrue to the civil servant, because that is not a court of first instance; there is no examination of witnesses. The only proceeding is reading papers. With regard to the Supreme Court, it is a court of first instance, and he might attend there; but I do think that the temptations and the objections to Calcutta, as the residence of a young man, at such an age, would overcome the advantage which might be obtained by any attendance at the court there. They have now the means of attending court occasionally here, which they do. Th students at Haileybury attend the assizes and sessions at Hertford. That might be carried out more beneficially by making it a part of their instruction. They do it through inclination now, but it might be made a part of their study that they should attend, and the professor should direct their attention to the cases which they have heard there, and make them the theme of his lectures.

3383. You have suggested, that it would be beneficial that young men should remain a year longer in this country than they do at present?—I think it would be advantageous.

3384. Are you aware of any inconvenience that would arise from permitting young men to remain longer than three years as students in England in consequence of their desire to perfect themselves in a knowledge of law previously to going out?—I think it ought to be kept in view, that it is most essential that there should be a thorough knowledge of the languages in order that a young man may do his duty in India. After a certain period of life there is very great difficulty in acquiring new languages; there is besides a physical difficulty when the organs of speech become fully formed and fixed; it becomes less easy every year after a certain period of life.

3385. The object of my question was to learn your opinion as to the practicability of giving some of the gentlemen who are sent into the civil service in India a sufficient knowledge of law before they leave this country to enable them, by any means which might be available, to take their place in India as barristers?—It would be practicable if you taught them technical law. But there is nothing in a name; when a man has eaten twelve terms at one of the Inns of Court, and attended lectures, he is entitled, if otherwise respectable—that is, if his conduct is not objectionable—to be admitted at that Inn of Court, and then to be sworn in at Westminster Hall as a barrister. I have passed through that ordeal; I know the first time I put on a wig and gown they did not bring into my head any more knowledge of law than I possessed before. It is not the fact of a man being called to the bar that gives him knowledge, but it is the professional education he has had. We know there are many men called to the bar without any intention of practising that profession. There is no guarantee when a man is entitled to put on a wig and gown that he is capable as an advocate. The state of things in England will not apply in India; here a man practises at the bar before the public, and no man can attempt

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attempt to take the duties of a barrister upon him without knowing his profession, and that is a sufficient check, and a sufficient protection to the public, apart from a thorough examination; but in India, if you only make it a test that he shall have been called to the bar, you have no proof that he is fitted for any judicial office which he may be called on to fill. Then, again, if it is to depend upon education, I say, without meaning to take to myself credit in the position of Professor which I hold at Haileybury as teaching law, that a young man may have at Haileybury all the advantages of an education in law, apart from a technical knowledge of English law, which he does not require, which a student of law now possesses who is studying at one of the Inns of Court; at any rate, you may have that, by additional legal assistance; so that the mere fact of being called to the bar does not guarantee a capacity for the position which the man is to hold in India.

3386. Would it be advantageous that diplomas should be granted, either from that college or from any other institution, to gentlemen who have attained a certain degree of qualification before they leave this country? — I see no objections to diplomas. That seems to be very much a general question: any one will see that there are men of great eminence whom all men would wish to see in the most eminent positions; anything which was compatible with a general scheme or plan which would admit such men would be approved of; but I think those men are exceptions, and would not be easily induced to bury themselves in remote stations in India. The question is, generally, what is necessary for particular appointments, and I think you may obtain from the number of students at Haileybury a great many sufficiently educated men; you may make the examination more strict at the entrance to Haileybury, which might be a good thing, so as to test the capacity of mind of the young men. You must look at that, however, in reference to the duties which are to be performed; one man may be more clever in one way than in others; the quality of mind might be looked at with regard to the duties he has to fulfil in India, and also you might have a severer examination as to his acquirements before he enters Haileybury, and only those men might be allowed to come in who passed the test; and then I am sure that the education they will obtain there is calculated to fit them for the situations they are afterwards to hold better than any other that I am aware of.

3387. Is it your opinion that any number of men most highly qualified for their attainments in law in this country, on going out to India would be induced to enter as pleaders in this new consolidated court in Calcutta, as soon as they had passed in the native languages, in preference to going to take an appointment in the Mofussil for three or four years, at a salary of 400 rupees a month; and do you think they might be advantageously employed in that way?—If you can ensure that they shall be employed as advocates or pleaders then I say certainly, but you cannot secure their employment by the public. The public will only employ those men in whom they have confidence, and who they know will do their work; therefore it by no means follows that a young man coming out in that way will necessarily obtain business.

3388. Do you think that any of those gentlemen, if they had the option, would take their chance in the court in preference to going into the Mofussil on a salary of 400 rupees a month?—I know one instance where that did occur; I have heard a very eminent man, who is no longer alive, Mr. Henry Torrens, say that he wished he had not come out in the civil service, but had gone to the bar. That, however, arises from a peculiar character of mind. You might occasionally find an individual of that description, but I should say from my experience, that the generality of men who have the service before them, which, I will say, is a noble service, and one to be greatly desired, would come to a different conclusion. Such men generally, acquainted with what are their chances of success at the bar, and knowing how peculiar are the qualifications of mind and of knowledge which are necessary in order to be a successful advocate, and, on the other hand, looking to the advantages which their own service holds out to them, that it may lead them to the high and important office of legislating for India as a member of Council, that it will in the meantime furnish them with adequate means to support the position and character of gentlemen, and be a means also, if they are prudent, of retiring at the end of a certain number of years with a certain independence, I think, in nine cases out of ten, would give the preference to the civil service.

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3389. It would by no means follow that you would preclude such a man who chose to practise at the bar from promotion in the civil service; on the contrary, you might hold out to him the prospect of succeeding to the situation of judge of the court in which he would practise, the only restriction being that you would be confining his hope of promotion to promotion in the judicial branch of the service?—I think it might be a very good nursery for judges eventually, but it is a measure which can only be adopted with reference to a very distant period.

3390. Mr. *Elliot*.] Do not you think it is very important that a young man, when he first goes out to India, should have an opportunity of making himself acquainted with the best Indian society?—I cannot say that for a young man to be introduced into good society can be anything but an advantage; but it may be purchased at too high a rate.

3391. Looking to the peculiarity of the case of a young man who is going into a part of the country where he will be a perfect stranger to almost everybody living there, is not it very important to him that he should have an opportunity, before he is sent into a banishment of that kind, of making the acquaintance of the best class of European society in India?—No doubt it is an advantage; but I think, at the same time, there are very many countervailing evils. If his residence at Calcutta were not of that lengthened duration which it now is, or if, without giving rise to the evils which I have referred to, he could have the means of becoming acquainted with good society, it would be an advantage.

3392. Is not there a very great difference between the case of a military and a civil servant; the former is sent out to join a regiment where he will meet with plenty of society, and with companions with whom he may associate; whereas the latter is sent to a Mofussil station, where he will meet, probably, with no Europeans, but the magistrate and the doctor, and where he will be left almost entirely to his own resources. Must not the situation, therefore, of a civil servant, who has made no acquaintances in Calcutta, before he goes into the country, with whom he can hold personal intercourse, or correspond by letter, be an exceedingly deplorable one?—I think, having spent two years in Calcutta, in the midst of gay society, his feelings will be much more bitter at having to separate himself from that society when he goes to his station, than they would have been if he had proceeded at once. A young man just leaving college, elated at the thought of being emancipated from control, and with hopeful anticipations of the future, is usually prepared to go to his post with alacrity and pleasure. And, I think, though undoubtedly some advantage might be derived from his introduction into good society, yet a greater amount of injury would be done by his residence in Calcutta; not only in consequence of what may occur to him there, but by means of the regrets which he would carry with him into the Mofussil, which would embitter his solitude when he got to his post.

3393. Supposing him to have formed a number of acquaintances in Calcutta, before he leaves for the Mofussil, no doubt he would experience some pain in parting from their society again; but will not he, during that portion of his life, have formed many friendships which will be to him a great source of future comfort; whereas, if he goes into the Mofussil at once, is he not altogether cast off at once from all society, and from the possibility of making any acquaintance, unless he happens to be fortunate enough to be sent to a military station?—I think there are much more important and solemn considerations involved in that question, with regard to the efficiency of a public servant, than could be counterbalanced by any mere personal loss which he might sustain in that way.

3394. Are not you aware that it has happened to some young men to become so desponding and melancholy that they have become almost useless?—I have heard of such cases, but they are very few. One of the advantages of Haileybury is, that havingh is fellow students, and those whom he knows, near him, the young man is not that isolated individual which a man would be who is taken out of my profession here, and sent out at once; the former has friends all about him, and others with whom he corresponds by means of letters; they may be near the station where he is, or they may be at a distance. I do not think that the position of a civil servant educated at Haileybury is often that which you have described.

3395. Sir

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3395. Sir *T. H. Maddock.*] Are you aware what is the monthly allowance of a writer in Calcutta?—I have understood that a civil servant out of employ has 400 rupees.

3396. It is much less than 300 *l.* Are you of opinion that a young man could live in Calcutta upon that allowance without getting into debt?—Generally not, and that is one of the difficulties which I see in the case of young men; they go out to Calcutta, and must live in a certain position; it is not only that they necessarily must keep up a certain position, but the climate itself requires them to have certain indulgences. They have their horses, and so on. They visit at houses where they see a lavish expenditure which they will not see in the Mofussil, and which may give them a taste for extravagance which I think it is better they should not have.

3397. Mr. *Macaulay.*] You have imagined that these young gentlemen remain for two or three years at Calcutta; the period fixed is a year and a half, within which period they are required to pass in two of the native languages. It happens that some of them remain for that time, and perhaps obtain a little law, whereas the more diligent pass in three or four months; do not you think that being allowed to remain so long in Calcutta encourages idleness, and must have a bad effect upon the least industrious and least respectable of those young men?—No doubt it must be so.

3398. Mr. *Hume.*] You were asked a question just now, how far the law in every part of India applicable to Englishmen and natives should be the same; a petition has been presented from the Armenian inhabitants of Bengal; in that petition it is stated that, by a solemn contract entered into with them by the East India Company, they were to be considered as Englishmen born, and to have the full enjoyment of all privileges then or thereafter to be granted to them. During the time you were in Calcutta, had you an opportunity of hearing or knowing anything of the complaints stated in this petition on that particular point?—Certainly; the Armenians are in a most anomalous position, and I think very much to be pitied. They are a highly respectable and industrious class of the community.

3399. The petitioners state that they are now treated in every respect as Hindoos or Mussulmans?—I do not think that is correct; they are not so. If they had stated this it would have been correct: the Mahomedan law forms the basis of the criminal law of India, but as it has been regulated and modified by the Regulations of the East India Company, they are subject to that law as Hindoos and Mahomedans would be; but it is invidious to say that that is the Mahomedan law, because all the worse parts of the Mahomedan law, with regard to mutilation and such matters, have been cut out; therefore it is made more like a Christian law. The position of the Armenians, however, is one which they ought not to be subjected to; they are entitled to the same advantages as British born subjects, and to have the English law administered to them.

3400. Mr. *Macaulay.*] To what law is a Frenchman in the Mofussil subject?—To the same law.

3401. The case of the Armenian is exactly the same with that of any European, other than a British subject, who goes out to India and settles in the Mofussil?—Exactly; the Chinese, the Burmese, the Parsees, the Armenians, the Jews, taking them all without classifying them, are all subject to the same criminal law.

3402. Mr. *Hume.*] Your object would be to introduce a law which should remove all those anomalies, and put all classes on the same footing?—I think so, certainly. I think there is one very important consideration which is, how the punishments are to be apportioned. With regard to British-born subjects the gaols, or places of imprisonment, must be very much altered since I was in India, in order that imprisonment could be one of the punishments which could be inflicted. The state of the gaols, though they may be adapted for the natives, who do not suffer from the climate, is not such as to render them fit for Europeans. I wish that to be stated, in order that it may be considered in framing any Act which has for its object a criminal jurisdiction which is to embrace British-born subjects as well as others.

3403. Sir *T. H. Maddock.*] Have you visited any gaols in the Mofussil in which there was no accommodation for European prisoners?—I am happy to say, with regard to European prisoners, that they are few, and therefore, probably,

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bably, it is that the Company have not had their attention called to any provision for them; it is very much in favour of the state of the European society in the Mofussil; but I would say this, that the gaols I have been in were not such as I think a European ought to be placed in, with reference to his health.

3404. There is one gaol which probably you have visited, the gaol of Allapore: have you ever seen Europeans confined in that gaol?—At this moment I cannot recall having seen them.

3405. Are you not aware that there are in that gaol proper arrangements for their confinement?—I dare say it may be so; it is an excellent gaol, and very great attention is paid to it; and it is one which has been more adapted, probably, for Europeans, because it is in connexion with Calcutta. It is just out of the limits of Calcutta, and as a great many Europeans reside in Calcutta and the suburbs more might be brought into that gaol. I was speaking of the Mofussil, where such a preparation has not been made.

3406. Have you visited the gaols in the North-western Provinces, where the number of European criminals is not so small, as your former answer supposed, in consequence of the presence of European troops?—That is a different matter altogether. The legislation for the military must be quite distinct from that which is applicable to other classes of British subjects. My observations referred to those British subjects who were not in the military service of the Company.

3407. Mr. *J. Fitzgerald.*] In reference to the defects existing in the procedure in the Mofussil Courts, would this be an improvement, and tend to remedy those defects: that the initiatory process should state the claim; the pleadings to be oral before the judge; the judge to settle the issue thereupon; the evidence to be *vivâ voce* before the judge, and strictly confined to the issue; and the appeal to be on the judge's notes of the case, the evidence, and the judgment; would that system be applicable to the Mofussil Courts, and remove the defects which you have pointed out?—I take for granted there would be a record of the court.

3408. The only record after the process would be the judge's notes?—The distinction is very great between the judge's notes and the record of the court. I can see no objection to those being the proceedings, if each of those steps were recorded at the time, so as to be on the record of the court and on the files of the court; if that were so, as far as the facilities of transacting business go, it would be a very great improvement. If justice can be administered as well, and if you can satisfy the natives that they can have their claims properly stated to the judge, then I should see no objection to that course of procedure, which is very much like the course we are now adopting here in the county courts. But one thing must be always kept in view in legislating for India; it is not only necessary that we satisfy ourselves that justice is administered, but that the natives shall be satisfied too. I think you must have some means of putting to their satisfaction upon the record of the court, that which they think is their claim; because if the judge is to have it in his power merely to put down what is the claim, when it comes up for appeal the party may say, "One of the most important things which I claimed at the time has been omitted."

3409. If the pleading were at once recorded, and read to the parties, would not that remove the objection you have mentioned?—The judge I think might be bound to take down all the claim, and the exercise of his judicial functions should begin when the issues are taken. He should take down the claim as the native makes it; there should be no exercise of discretion in that respect, except in the way of cutting down the argument. Then, when the statements of the claim and the answer are settled, you might eliminate from the statements the issues to be tried.

3410. Mr. *V. Smith.*] What the judge takes down should be read over to the parties?—Yes.

3411. Mr. *J. Fitzgerald.*] The appeal should be, in fact, upon the record of what the judge has taken down?—Yes; but then comes this question: there is not in those courts in the Mofussil what we have here, an oral argument afterwards; and therefore, unless you provide for that, the native will be shut out from any mode of arguing his case. In consequence of that defect, the native now

now resorts in his written pleadings to the argument which we should use before the judge at the hearing; if, therefore, you shut him out from that mode of arguing his case, you must take care to give him an opportunity at the hearing of bringing forward his authorities, and of an oral argument which the judge must hear.

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Lunæ, 25° *die Aprilis*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir Charles Wood.
Mr. Elliot.	Mr. Vernon Smith.
Mr. Edward Ellice.	Sir George Grey.
Mr. Hardinge.	Sir J. W. Hogg.
Mr. R. H. Clive.	Sir R. H. Inglis.
Mr. Baillie.	Sir T. H. Maddock.
Mr. Hildyard.	Mr. Mangles.
Mr. J. Fitzgerald.	Viscount Joceyln.
Mr. Lowe.	Mr. Labouchere.

THOMAS BARING, Esq. in the Chair.

John Farley Leith, Esq., called in; and further Examined.

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3412. *Chairman*.] ARE you desirous to offer any explanation or correction of your last answers to the Committee?—I am. It has been stated generally that I assented to what was suggested by one of the Honourable Members respecting an improvement which would take place, if, instead of having written pleadings before the court, the parties were brought up to make their statements, which should be taken down at the time. I did think that that would be a great improvement upon the present voluminous system of pleading, and I still think so; but upon reflection, there are great difficulties in the way of carrying it out in all cases, which I wish to state. One difficulty is the great extent of country over which the population is spread; and this must be considered with reference to the nature of the jurisdiction which the court exercises. The jurisdiction of the zillah court extends over all the landed property within its jurisdiction; both parties in such cases may be far distant from the court. Another jurisdiction which the zillah court has, is over the matter in dispute, if the cause of action accrued within its jurisdiction, though the parties may be far apart and distant from the court. A third objection appears to me to be those usages and social customs which have been recognised by the courts hitherto in not requiring natives of rank and position to appear in the court, who think it derogatory to the position they hold. All these matters it would be of great importance to consider well; otherwise it would be a decided improvement over the present system of pleading, in my opinion, if the plan suggested could be carried out practically in all cases.

3413. Mr. *Elliot*.] Do not you think it would be wise to leave the whole decision of cases of this description to the local authorities?—I think I stated in my former examination, in taking the liberty of suggesting what I considered an improvement in the constitution of the highest court of appeal in India, that that court would have the means, and be better able, from its knowledge of what the requirements of the country were, and how the improvement could be carried out, of revising and improving the procedure in the Mofussil courts. That I think could be better done from such a source than by legislating for it in England.

Neil Benjamin Edmonstone Baillie, Esq., called in; and Examined.

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3414. *Chairman*.] YOU were for some time in India; will you state to the Committee how you were employed there?—I was about 21 years in India; I was an attorney in the Supreme Court of Judicature at Calcutta, and I was also a vakeel, or pleader, in the Sudder Dewanny Adawlut; for about 12 years

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years I was a pleader in the Sudder Dewanny Adawlut, and for six years of that time I held the office of Government pleader in that court. I left India in the beginning of 1844; my knowledge, therefore, is entirely confined to what took place before that time.

3415. What are the duties of a vakeel?—He is the only legal practitioner in the Company's courts; he has the preparation of the written pleadings, the general conduct of the suit, the getting up of the evidence, and he pleads orally, to some extent, as far as the practice of the courts allows. Oral pleading is very much in the form of question and answer, and hence it is called in the native language by words which signify question and answer. Many judges allow considerable latitude to the vakeel in oral pleading, and in the Sudder Dewanny Adawlut it was becoming more the practice before I left; but new judges who came from the Mofussil were still inclined to confine the oral pleading to answers to questions put by the court.

3416. Are the vakeels of much assistance to the judges?—In the Sudder Dewanny Adawlut, to which my personal experience has been confined, I cannot say that they were of much assistance to the judges. Perhaps the best way will be for me to explain how a case is usually tried in that court: there is a large bundle of proceedings before the judge, which is called the record. The vakeels are in attendance, and the judge commences by entering the names of the parties, and the matter in dispute; after that, he usually prefers to be left to himself; the papers are read to him by his reader. A vakeel is seldom called on, except sometimes to answer a question, till the end of the cause; when the judge has probably made up his mind; the vakeels are then called in and asked if they have anything to say, or more usually the judge puts a question, which is answered at more or less length by the vakeel, and replied to by his opponent. On the whole, therefore, I do not think that at that time, though I believe the practice has been altered somewhat since, it could be said that the vakeels were of much service to the judges; indeed, I think a case might have been conducted almost in the absence of the vakeels; the judge was left very much to himself; he had not only to determine the facts, but to go through a long process of investigation; and, finally, he had to decide on both fact and law in the best way he could. It seems to me, therefore, that a greater onus is cast upon a judge in India than is usually the case in this country.

3417. Are the vakeels frequently promoted to the native bench?—The native bench, I believe, has been constituted on principles by which it is necessary for a person going into the native judicial service to commence at the lowest grade. He commences by being a moonsiff; he is then advanced to be a sudder ameen, and from a sudder ameen to be a principal sudder ameen; but I do not think that at present a person is ever admitted into the native judicial service without beginning at the lowest grade, the moonsiff; the consequence is, that vakeels in good employment, particularly in the Sudder Dewanny Adawlut, will seldom accept the judicial service on that footing, and they are in consequence, generally speaking, excluded from the native judicial bench. I should, perhaps, before leaving the subject of the vakeels, notice what appears to me a great defect in the judicial system; that is, the interposition of a professional agent between the suitor and the judge, without taking care that the agent is well qualified. It appears to me that the present system is very defective in that respect; little or no attention is given to the qualifications of the vakeels. The legislation applied to them is also, I think, objectionable. The principle is one almost entirely of coercion, and, generally speaking, they are seldom very well treated; they are subjected to arbitrary fines, frequently for very trivial faults; and in particular there are two circumstances which, I think, have had the effect of keeping down the character of the profession generally. The first is that which I have alluded to, the manner of oral pleading. The vakeel is asked a question; he is expected to answer it categorically; it may be difficult for him to do so, with a due regard to the interests of his client, and the consequence is sometimes that the answer is not a true one. I cannot conceive anything worse than a state of circumstances which compels the vakeel either to sacrifice the interests of his client, or to prevaricate to the court. I think that has, more than anything else, tended to lower the character of the native vakeels, and has confirmed the distrust which exists on the part of the English judges towards them. That, I think,

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I think, is one of the great faults in the present system, and it ought to be entirely abolished. The vakeel should be put upon the same footing as a barrister here; he should be encouraged to make a speech, and never be called on to answer directly with regard to any fact, I am certain that, in some cases, I had not the confidence of my client, from the circumstance that the client did not expect that I should conceal a fact if he had told it to me. The other circumstance which I alluded to as having a bad effect on the character of the vakeels is the manner in which their remuneration was regulated; it was a commission, which might be high in some cases and very trivial in others: a few pence or, in some cases, it might be as high as 1,000 rupees, but in all was without the least reference to the labour of the vakeel in conducting the cause. Frequently in the Sudder Dewanny Adawlut, in the heaviest cases, where there was a double record, the fees were the smallest. The worst part of the whole system, however, was this, that there was a most stringent rule, that if a vakeel accepted more, or took less than his fee, he was liable to be dismissed. I believe that that rule was habitually disregarded by the native vakeels; and that they were, therefore, in the position of being constantly exposed to dismission if detected; nothing, I think, could be worse for the character of the profession than those two things, one, the existence of a law which it was scarcely possible for the vakeel to obey, and the other that he was subject to interrogatories which he could scarcely answer honestly, with a due regard to the interest of his client. The first of those evils has been abolished; he is now no longer obliged to adhere to the old standard; but I think that that has left its effect upon the character of the profession, and it has tended very much to keep it at a low level.

3418. Did the commission you allude to constitute the whole remuneration of the vakeels?—There was nothing but that; I refer to the time when the old regulation was in existence, that a vakeel should take neither more nor less than his regular remuneration; that was abolished when European pleaders were admitted into the court, and they found it impossible to carry on business with this law existing. When the old rule was in force, and vakeels were restricted to the fixed commission, which was deposited in the court, something additional was commonly taken by way of earnest, or a retainer; and it was so much the practice for this regulation I am alluding to to be violated, that a native word, signifying evidence, was generally used to signify a retainer paid to the vakeel.

3419. Are the vakeels, whose position seems to be similar to that of barristers here, appointed after any prescribed course of study, or on what conditions?—There were no conditions in my time; I do not know whether there are any now; formerly, I think, the vakeels of the lower courts were appointed just as the judges thought proper. No judge, of course, would appoint a vakeel whose character he did not believe to be good, but there was no standard of qualification that I am aware of. When I was admitted the question arose, whether I was qualified in the native languages. I think that was the first time that a question was raised as to the qualification of a vakeel. It was then settled by one of the judges, to whom I was known, certifying that I was sufficiently acquainted with Hindostanee and Persian, which were then the language of the court.

3420. Mr. *V. Smith.*] What are the interrogatories to which a vakeel would be subjected which he could not truly answer without injury to the interest of his client?—Any question of fact.

3421. When is he so called on?—As I mentioned, the practice in the Sudder Court was, that the judge in going through the proceedings would sometimes if he came to anything which required explanation, send for the vakeel; he would then put the question to him; but usually it was postponed to the end.

3422. Mr. *Elliot.*] After English barristers of the Supreme Court practised in the Sudder Dewanny Adawlut, was that system adhered to?—Before I left Calcutta few English barristers came into the Sudder Dewanny Adawlut; the English language was not allowed then. On one or two occasions, in cases in which I was engaged, it was, I think, allowed, and the English barristers were not exposed to that system of catechising. I suggested to some of the judges, when I first came into the court, how much easier it would be for the court itself if the pleaders were allowed to state the matters at issue in the same manner as in the Queen's Courts. They agreed that it would be so; but I think there was a feeling of distrust on the part of the judges with regard to the native vakeels.

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vakeels, and when I consider the effect of that system of catechising the vakeels, I am not surprised that a feeling of distrust should have existed.

3423. *Chairman.*] Are you to be understood to say that the vakeels are appointed at the arbitrary discretion of the judge, and is their removal equally optional with him?—I do not think any judge would displace a vakeel without reason; I do not recollect any instance of its occurring in the Sudder Dewanny Adawlut, and by the law a vakeel cannot be dismissed without sufficient reason.

3424. He has the power of appointing according to his own judgment?—He had at that time. According to my recollection, there were no rules upon the subject; the vakeels were appointed entirely by the judge, and in the Sudder Dewanny Adawlut, when some other English gentlemen, who were admitted after me, came into that court, all that was required of them was a knowledge of the Hindostanee language. Some persons of dubious character applied to be made vakeels of the Sudder Dewanny Adawlut, but their applications were very properly rejected. With that exception, I do not know that there was anything else required.

3425. You stated that promotion to the native bench proceeded from the lowest moonsiff's court, and that was the reason why a vakeel would not accept such a position; do you think a change in that respect would be desirable?—I certainly do; I think there is nothing that will raise the character of the vakeels so much as their looking forward to promotion to the native bench; I look upon the vakeels as the proper source of supply for the native bench; I think they would be more respected by the native judges if the native judge considered, as he would, "the man now before me some day may not only be by my side, but may be placed above me as principal sudder ameen." I think the two offices should be considered branches of the same profession, and knit as closely together as possible; and whenever I thought a vakeel the best qualified, I would promote him at once to the highest seat on the native bench, just after the practice of England.

3426. Can you suggest any classification of suits by which a portion of them might be summarily disposed of?—I think after what I have said as to the defects in the system with respect to vakeels, the second great defect in the Company's courts is the want of a proper classification of cases: all suits run the same course, even the most trivial; there are a plaint, an answer, a reply, and a rejoinder, a regular record of all the evidence, an appeal, and possibly a special appeal. I cannot conceive anything more ridiculous than such a system, considering that there are a very great many cases the matter in dispute in which is really not above a few rupees. I am told that almost all the cases that come before the moonsiffs (I do not know the fact from my own personal experience) are cases merely of debt. Now, nothing is more simple than the decision of a case of debt; small debts are everywhere decided summarily; and all small-debt cases might, I think, be at once separated from the jurisdiction of the moonsiffs, and set aside for summary decision without appeal. I think in that way you might soon get rid of almost all the cases now within the jurisdiction of the moonsiff, and after that was done, and the moonsiff's cases reduced to nothing but mere land cases, as to which there is always some difficulty, the moonsiff's jurisdiction might be abolished.

3427. Do you think that in any cases such summary jurisdiction might be committed to the junior civil servants?—That is just the way in which I would dispose of them. Those cases are very easy of decision, and require no knowledge of law, and not much experience of any kind to decide them correctly; we have a great many such cases decided at once in Calcutta by men appointed, without going through anything like the education of Haileybury, and I have never known any complaint that those cases were not properly decided. It seems to me, therefore, after that precedent, that all those cases might be fairly set apart for decision by the young civilians. All that is required in regard to such cases is an honest judge, and that is the difficulty at present. No person, I believe, has proposed to leave them for decision to the moonsiffs without appeal; but all that is required being honesty in the judge, the cases being simple in themselves, they are well suited, I think, to the young civilians; and in addition to that, it would afford the means of employing them, which is at present a very considerable desideratum.

3428. What would you do with the remainder of the cases?—With regard to the remainder of the cases, I think almost all the cases, as far as I have heard,

heard, within the moonsiff's jurisdiction, might be taken from him. There would then remain only cases relating to land, and I think those cases should be transferred to the sudder ameen, and the moonsiff's jurisdiction entirely abolished. That would be a great advantage in itself. The moonsiff's jurisdiction would be no longer necessary, I believe, because if the greater part of those cases were summarily disposed of, there would be very little for him to do. But I think, on another ground, the abolition of petty jurisdictions is a great advantage: there is not only the petty judge, who it is well known is of all judges the most open to suspicion, but there are petty officers, who are generally suspected of being corrupt, and petty vakeels, with whom many of the suits commence, and who are therefore in the most important position in regard to the suit. I think, therefore, it would be of great advantage in every way to get rid of the jurisdiction of the moonsiffs. In some instances I observed, before I left India, what I thought a tendency to the abolition of the sudder ameen's jurisdiction. I think in some instances the sudder ameen's office was left vacant. It might have been perhaps an accident, but I thought the tendency was rather that way, and that the result would be, or might be, to leave only two judges, the moonsiff and the principal sudder ameen. My opinion is that it would be much better to leave the sudder ameen and the principal sudder ameen, and that there should be no inferior judge; that you should have no judge of so low a grade, or at so low a salary, as the moonsiff.

3429. Would it be desirable to examine parties in person?—In all those summary cases, I think, as a general rule, the parties ought to be examined in person, both the plaintiff and the defendant. That is the practice, or at least it was the practice in the court of requests in Calcutta. I think, possibly, it is liable to some abuse: a poor man might summon a rich man, in the hope that the rich defendant would not appear, and that he would rather pay than do so; still I think the general principle ought to be, that the parties should appear in person in summary cases; but I would leave a discretion to the judge. I would do so, not only for the reason I have stated, but because I believe that it was the old law of the country; it was not the practice under the Mahomedan law always to require the appearance of a person in high station. In regard to summary cases, the examination of the parties should, I think, be the general rule; with respect to other cases, what are called regular, I would adopt a different plan. At present the practice is, as I have mentioned, for the plaintiff to commence with a plaint, telling a long story in his own way; it is answered by the defendant in a similar manner, and then there is a reply and a rejoinder before the stage at which the parties could be regularly examined as witnesses. That examination, therefore, would take place after the parties might have irretrievably committed themselves to a string of falsehoods. To examine them under those circumstances, would not, I think, be fair; it would be of no use: they would come up only to confirm what they had already stated in their pleadings. The best way, I think, is that which was adopted by the Mahomedans, and is the plan which has been alluded to by an honourable gentleman present, in a question put to the last witness; it is that of examining the plaintiff in the first instance; the plaintiff, I think, after he has put in his plaint, ought to be examined. The judge should then determine the points to which the defendant is to be called on to answer, and if he did not answer categorically to the points in issue by his vakeel, I would give the judge a power of summoning him in person; but in regular cases, I think, the general rule ought to be, with regard to the defendant, that he should not be summoned to appear in person unless the judge thought it necessary to examine him. I think, however, that the parties should not be examined without some alteration of the present practice in regard to written pleadings.

3430. Is your opinion favourable to the general introduction of juries in India?—I think juries would not be applicable to a great many cases which occur in India. I should perhaps make myself intelligible to most people, when I say that the cases which occur in India are very generally cases similar to those in our courts of equity, in which it is frequently difficult to raise an issue which can be sent to a jury; it would be exceedingly difficult for a judge in India, in many cases, to raise an issue to send to a jury, and reserve the remainder of the case for his own decision. It appears to me that he would have to abdicate his functions entirely, and leave the decision upon the whole case, fact and law, to the jury, which I do not think would be desirable.

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Secondly, I think that a jury in this country is, perhaps, of the most use in determining the degree of credibility due to witnesses. I do not think in that way there would be much occasion for a jury in India: for I am sorry to say, with respect to almost all the oral evidence in a case, it requires no discrimination to distinguish between it; it is, generally speaking, plainly and palpably false. To express in the strongest way my own opinion on the subject, I may state that I was a pleader in the Sudder Dewanny Adawlut for 12 years; for a good many of those years I had a very large business; I was engaged in most of the principal cases, but I scarcely recollect an instance when I thought it worth while to comment upon the testimony of the witnesses; I looked to the plaint and to the answer; I looked to errors in the decree; I looked to everything, in short, except the oral evidence, and my practice in that respect was quite justified by the feeling of the judges; for scarcely a decree is passed in India in which it is not stated, as for the witnesses, those of each party support his side of the case. Those words occur so frequently in the decrees I have had before me, that I used to say they might be stereotyped by the judge for the purpose of putting into his decree. I believe, in saying this, I am not in the least exaggerating what the real fact was with regard to the general character of the testimony of witnesses, and therefore, so far I think a jury would be of very little use.

3431. In the case of oral testimony, would not cross-examination elicit the truth?—Cross-examination only makes that apparent which is sufficiently apparent already, the falsehood of the witness; that is all that is discovered by cross-examination. With respect to juries, it is also very apparent that you could not often get a jury who would be qualified for the task; it would be a mere abdication of the functions of the judge; and I think it is much better to leave upon the judge the moral responsibility of deciding fact and law when they are so much mixed up together. Further, you could not transplant the jury system as it exists in England to India. The jury system in England does not consist simply of a jury, but it is a jury under the guidance of a most intelligent judge, having all the facts examined before them by most intelligent counsel. That you cannot have in India. All parties in India say it is necessary for the judge, if he wishes to get at the opinion of the jury, to begin by keeping his own carefully concealed. For these reasons, it seems to me that no dependence can be placed upon the introduction of juries as a means of any material reform in the present state of the judicial system.

3432. Is there any obstacle to appeals?—One of the great obstacles is the stamp. I think the *ad valorem* stamp ought not to be repeated in appeals. My reason is this, that I think appeals form the only means we have of ascertaining whether the judicial system works well at all. It must be recollected that all that is done is under a mask; it is concealed under a foreign language, away from the scrutiny of those who can best criticise it, that is the English public; the only way you have, therefore, of knowing whether the system works well at all, is testing it by the satisfaction of the parties in each case, and you cannot apply that test to it so long as there is any obstacle to appeals. I would therefore, for that reason, as well as for others, abolish the *ad valorem* stamp upon appeals. Besides, it is hard to a party that, if for any reason arising from the deficiency of the judge, the question is not rightly decided in the first instance, he should, without any fault of his, be called on for a repetition of the stamp.

3433. In cases to which the Hindoo and the Mahomedan laws are applicable, how are those laws expounded?—They are expounded by persons called law officers; the law officer of the Hindoo law is called the pundit; the law officer of the Mahomedan law is properly called the moofti; but there used to be two Mahomedan law officers in the Sudder Dewanny Adawlut; the highest of those was called the kazee-ool-koozzat, and the other the moofti; the office of the moofti has been abolished; the kazee-ool-koozzat is now the only Mahomedan law officer. Whenever a question of Hindoo or Mahomedan law arises, it is submitted to one of those law officers; I think that a great defect. It is very generally suspected by the natives, and I am afraid with too much justice, that the Hindoo law officer, in particular, is seldom honest. With regard to the Mahomedan law officer, I think public opinion is in his favour. Further, I believe there are many cases which occur both of Hindoo and Mahomedan law, where the real law of the case is not sufficiently elicited for want of sufficient knowledge

knowledge on the part of the judge in putting his questions. I think therefore the judge should now be required to expound the law for himself. I believe the Hindoo law, generally, so far as it is required in the courts, is very well ascertained by the authorities on the subject, and by the decisions of the courts; I think, therefore, the judges, particularly the English judges, should now be required in all cases to determine the law for themselves. That would have another beneficial effect, that it would make them learn the law. With regard to the Mahomedan law, I think the same observation also applies. That law is well ascertained, and I think there is now enough of it to be found in the English language upon those subjects to enable a judge to administer it for himself.

3434. Would you think it advisable to make any attempt to codify so much of those laws as the courts of justice are required to administer?—I think, in the first place, it is unnecessary. It appears to me that so much as the courts of justice are required by law to administer, is very well defined in known books and by the decisions of the courts, and I think it would have a tendency to perplex if an attempt were made to select from those books a part of the law to codify, and reject everything else. What you selected in that way could hardly be called Hindoo law; it would be contrasted with the original authorities, and if it were found to be at all different from those authorities I think the position would be a very perplexing one, not only for the judge, but also for the Legislature. Further, I think, with regard to those laws, that they are founded on something more than human authority, in the opinion of the natives, and any attempt to codify them would be the introduction of a new principle. I may, in confirmation of what I am saying as to the wisdom of refraining from interference with those laws in that way, allude to the example of Aurungzebe, who, when he made a digest of the Mahomedan law, did not pretend to promulgate it as a law of his own. All those parts of the Mahomedan law which he selected are no more law than they were before, and such as he omitted are still as much law as they were before; he never attempted to codify, though he digested, and I think his example a very good one for the British Legislature to follow.

3435. How are the cases disposed of to which those laws do not apply?—By equity and good conscience, is the term used; but the truth is, the decision is left entirely discretionary with the judge.

3436. Is there much practical difficulty in disposing of those cases, and does the want of a positive law lead to any, and what bad effects?—I think there is a great deal of practical difficulty; I think many cases occur in those courts which it is really impossible to determine justly without some previous law, and unless a law is made for those purposes, that difficulty will always exist; I think, further, that there are certain practical inconveniences which arise from the present want of law. I believe it leads to a great deal of litigation; I would ascribe the supposed litigiousness of the natives, in a great measure, to it. It is very difficult for a man to say, frequently, whether he has any right or not; that arises from the want of law, and, I believe, the consequence has been that a great many suits are brought into the Company's courts which would otherwise never have been brought there at all. My reason for thinking so is this: I believe, from the best information I have on the subject, that the plaintiff fails in a great many cases. I do not see how that could well occur, except from a defect in the law; because, if the law were well ascertained, the plaintiff would not go to law. I believe that in India the plaintiff fails, so far as I can judge, in more cases than in almost any other country; I have not seen any general statistics on the subject, but from my own retainer books, out of 100 cases which I have taken in order as they stand, the plaintiff failed in 49, he succeeded only in 31, and the remaining 20 cases were returned for re-investigation. It appears to me, therefore, that a great amount of litigation is produced by that means. I know of no cause which is adequate to the effect, but the want of positive law; men are perplexed; they do not know what their rights are, and in such cases it is very difficult for them to refrain from going to law. I had an Armenian client (and the Armenians have no law) who was in every case, either as an original party or a claimant, which came up from a particular part of the country. On inquiring into the reason, I was told that his reason was this, that he did not know what might come of it, and he made it a rule to put in a petition of claim in every case in which

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Armenians were engaged. I am quite satisfied that even an honest pleader, who wished to give the best advice in his power, would be very frequently perplexed, and hardly able to say to a client, "Do not go to law." It appears to me that that is one of the greatest evils; it throws a great deal of useless business on the courts. If I take the cases appealed as a test of the cases in general, it would appear that almost half of the cases which are brought into the Company's courts ought not to have come there at all, because the plaintiff fails in them. I do not say that that is true of all the cases: I am merely saying that it will be found true, probably, of those cases which are of great magnitude, and are appealed; but, in addition to that, it is not only that a great many cases are brought into court which would not be brought at all, but in many cases which ought to be brought, in which the party may have some right, it is exceedingly difficult for him to determine what is his actual right; the consequence is that he brings a suit, but he brings it wrongly, and the error may not be discovered till the case comes into the Sudder Dewanny Adawlut, the court of the last resort, where it is found that he has not brought the suit in the proper manner, and therefore he is nonsuited. I cannot conceive that that should arise from any other cause than a defect in the law. I believe also it is that which has produced another fact which I observed very frequently in the course of my practice in the Sudder Dewanny Adawlut, namely, a great diversity of opinion on the part of the judges. It was very difficult for two of them to agree in many cases; the disagreement was frequently upon the facts, but there were a great many cases in which they disagreed upon what may be termed the law. A party would bring a suit; the judge would consider that he might have some right in the case, but not in that particular form in which he brought it forward, and he would nonsuit him. Where several of the judges were of opinion that a party should be nonsuited, they sometimes came to that opinion on different grounds. I think that cannot be assigned to any other cause than a want of law. I may mention a case which occurred in my practice in which there were eight different opinions given by judges. It was a case arising out of a sale: the question was a warranty; according to the law which existed in that country for a long time, the Mahomedan law, warranty is implied in almost all sales; according to the English law in general there is very seldom warranty. This was a case of warranty, which occurred in the North-western Provinces; five judges gave their opinions upon the case, all differing. Two of the judges were of opinion that the party might have some right, but that he had it not in that particular form in which he brought his action. They were therefore of opinion that he should be nonsuited, but they came to this opinion on different grounds. The case then came into the Sudder Dewanny Adawlut at Calcutta for a final decision; three judges sat upon it, and out of those three judges again, there was one who considered that the party ought to be nonsuited, and that also upon a different ground. It appears to me, therefore, that in this case, where there were eight opinions, all of intelligent men, they were embarrassed solely by the real difficulties of the case, which arose from the fact that there was no law applicable to it. I conceive therefore that that is a second practical inconvenience which arises from the want of law. But there is another also; the judge has to determine the issues. If the judge has a vague notion of the rights of the parties, and his notion is very frequently likely to be vague if the law is not defined, he will settle the issues wrong, and evidence will be given as to points on which it was not required; the consequence will be that the case, after it has come up to the court of last resort, will be returned for re-investigation. Now, in those three different ways; first, that suits are brought which never ought to be brought at all; secondly, that suits are brought in a form in which the judge cannot properly decide them, and he is therefore obliged to nonsuit the parties; and, thirdly, that frequently issues are raised which are not the proper issues of the case, and the case is returned for re-investigation, I think there is a great amount of unnecessary business cast upon the courts, and I can ascribe that to nothing else than the want of law.

3437. Do you think it would be just to apply the English law to the solution of such cases?—The inhabitants of India are divided into two great classes, the Mahomedans and the Hindoos. I have observed, in examining the reports of cases decided in the Sudder Dewanny Adawlut, that the suits very generally arise between two individuals of the same class. Most of the suits are between two or more Hindoos or between two or more Mahomedans, and there is a very small

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number of suits that may be called miscellaneous, in which there are parties of different religions. The Mahomedans, I think, are universally, at least very generally, in the practice of regulating their dealings by their own law, so much so, that though by the regulations of the Government their own law is applicable only to cases of succession, inheritance, marriage, and religious usages, the judges have found it necessary to apply their law to almost every Mahomedan case which comes before them. The Mahomedan law is constructed on principles very different in some respects from the English law. I think, therefore, with regard to all those cases of Mahomedans it would be exceedingly unjust to apply the English law. The courts now decide them according to equity and good conscience, and that obliges them in a manner, to decide them according to the law of the parties. With regard to Hindoo cases, again, I think the Hindoos also have some notions of their own in carrying on their dealings. I think it is almost impossible for men to contract, even in a simple case of sale, without having some general notion of the rights they are acquiring by the contract and the liabilities they are incurring. I think peculiar notions do exist, generally speaking, among the Hindoos as well as among the Mahomedans, and I think, further, that those notions are very generally derived from the same source, the Mahomedan law, and that it would be much more agreeable to equity and good conscience to decide a case arising between two Hindoos according to the Mahomedan law, which is better adapted to the state of society in which they are at present, than the English law, a law which is derived, we know, chiefly from the customs of a people at a much more advanced stage of society. Particularly with regard to contracts of sale, it seems to me that these two laws are constructed with reference to two different principles. The Mahomedan law of sale is constructed with reference to an implied warranty; the English law is constructed, as is well known, generally speaking, upon the principle of *caveat emptor*. Now, if a case of sale should occur between parties having the Mahomedan notion of the contract, where the man who was selling knew that by law a warranty was implied, and the man with whom he was dealing that the thing he was buying was warranted, it would be exceedingly unjust to attempt to solve such a case by the rules of the English law.

3437*. What remedy would you propose for the defects in the law to which you have referred?—The only remedy that appears to me to be at all applicable to the case, is a remedy which, with great submission, I think ought to have been applied to it many years ago, and that is, a positive law. I believe, from my own practice, that cases frequently occur in those courts which no wit of man could determine justly without some positive previous rule. That case of warranty which I have mentioned is a very strong one, in which it is impossible to say on which side the justice lies. I think, therefore, the only way in which those cases could be met is by making a law, and I think that law ought to be founded, as far as possible, upon what might be ascertained to be the existing notions of the people upon those subjects; for this reason, that if you apply a law to them which they do not understand, they will not regulate their dealings by your law; they will go on regulating their dealings by their own laws, or their own notions of what is just and proper, and when those dealings come up before a judge to be decided on, according to the only law which he can apply, he will find, in applying that law, he is obliged to commit injustice, for he must introduce something which the people had not in their ideas when they were contracting. It seems to me that such cases ought always to be determined according to the notions of the parties, for that is the law of the place. The notions of the parties should be taken into view, and should be the basis upon which any law is founded. My idea is, that, to a great extent, the Mahomedan law is a very fair criterion of what the notions of the natives of India are, generally speaking, on the subject of contracts; it was their law for 600 or 700 years. It is scarcely possible that a law could have been in existence so many years and not have made some impression upon the subjects of the country. My idea further is, in comparing the little that remains of the Hindoo law with the Mahomedan law, that there is a singular coincidence in some respects in regard to contracts of sale. There is very little in the Hindoo law upon the subject, but it is very curious that that little has in it a peculiarity of the Mahomedan law; that peculiarity is the *locus penitentiæ* which is sometimes given to parties, and seems adapted to an

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an early stage of society. I think it is very likely that the Mahomedan law may be better adapted to people in the stage of society in which the natives of India now are, than a law such as the law of England. I think, therefore, that any law which should now be made ought to be founded in some measure upon the Mahomedan law. I would not wholly reject the English law, for it contains a vast deal of what is valuable; but out of those two systems, the Mahomedan law and the English law, any new system of law for India should be made.

3438. Sir *T. H. Maddock.*] You limit that observation to the law of contracts, do not you?—Yes; for this reason: I should never, as a general principle, make a law beyond the necessities of the people: my idea is, that there is a great deal in the English law which is not required for the state of society in India; all that is wanted is a law of contracts.

3439. *Chairman.*] Is it your opinion that a code which might appear excellent to English judges might be inapplicable to India?—That is my opinion.

3440. Would it not require a permanent legislature in India to meet the wants of the people and to change the laws, as circumstances might justify?—It would require a permanent legislature, certainly, to carry on what is called the current legislation of the country; but I think if the law were made in the first instance it would require very little amendment for a long time, and the law might be constructed on principles sufficiently large to admit of its extension with the changes of society. It is quite evident that a great deal of the law of England must be inapplicable; there is, for instance, the law merchant and the law of bills of exchange; I should think that at present it would be very unjust to apply the law of bills of exchange to hoondies, as the native bills of exchange are called; and yet it is the practice, to a great extent, in Calcutta, to treat them as bills of exchange are treated; that is, they are protested, and the same rules applied to them as would be applied to bills of exchange. If a case occurred in the Company's courts where it was attempted to throw off responsibility for want of notice, it would be very unjust to apply such a law to the dealings of the people of India: the question ought to be determined by the fact whether any injury was done to the party or not.

3441. Do you think that natives might be appointed to the zillah judgeships?—That is a very large question; it involves a question of intellectual qualification, and also of moral qualification. I think intellectually, so far as I could judge before I left India, there were a great many decisions of native judges which indicated a very considerable capacity for dealing with judicial subjects. I think, upon the whole, at that time, they were not equal on the average to the decisions of the English judges. At the same time, when they came up on special appeal, it happened in the Sudder Dewanny Adawlut the native judgment was frequently confirmed and the English judgment was reversed. I do not think, however, that that is any fair criterion of the soundness of the two judgments, because a case which came first by special appeal into the Sudder Dewanny Adawlut, was admitted only upon the existence of some fault upon the face of the decree itself. That fault was likely afterwards to be discovered when the case came on for trial, and the consequence might be that the judgment would be reversed only on account of that fault. The cases were therefore selected cases, and not cases from which any fair inference could be drawn. I think, upon the whole, at that time the judgments of the English judges were perhaps better than those of the native judges. Still, however, the judgments of the native judges were good. With reference to the large amount of questions, which are now open questions, for which there is no law at all, I think it would hardly be right to appoint native judges to the zillah judgeships: but after a law has been made to include all those cases, and there is no longer any discretion left to the judge, I think, that so far as the intellectual qualification of the native is concerned, he might be made a zillah judge. But then there would still remain the question of trust. Upon that point I believe there is still a very considerable amount of suspicion on the part of the natives themselves. I think they are generally of opinion that their countrymen can hardly be trusted with a decision in the last resort: and though, speaking of my own practice, I cannot say that I ever found any decision of a native judge which was objected to on the ground of corruption, yet still that feeling existed so strongly, and I am inclined to think that it still exists so strongly, that it would not be expedient upon that other ground, the

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the moral ground, to appoint natives to the situation of zillah judges, but that they require, and will for some time to come, require to be kept under superintendence.

3442. You think they would not inspire confidence in the natives?—I think not yet; though I hope and believe the time for it will come, and more particularly after a law has been introduced such as I have mentioned. I must notice one remarkable feature of the native character; if you give them a law, there is no people who will more rigidly observe it. I may mention a case in point, which occurred frequently in my own practice; I have said that the issues are usually determined by the judge. That is under a Regulation dating as far back as the year 1814, by which the judge was required to settle the issues after making inquiry of the parties, and after reading the pleadings. That regulation was very generally neglected by the English judges, and it was very seldom that the issues were regularly taken. I have understood since I left India that that Regulation is uniformly acted on by the native judges; so much so, that they have invented a native name for that proceeding, which I do not recollect at this moment, but I am told they invariably act according to that Regulation. And I think, therefore, if the native have a law, he is very likely to act rigidly according to it, and he might then be very fairly left to decide the most important cases without being under supervision.

3443. What should you say to the plan of introducing the English language into the zillah courts, and making its use imperative?—With regard to the use of the English language in the zillah courts, I think in such a country as India, where there is such a diversity of languages, the best principle is to adopt the language which is most known to the people at large, and make that the language of the courts in the zillahs, and the language of the Sudder Dewanny Adawlut, that is so far as the proceedings of the court are concerned. I would subordinate to that principle the judge and the pleaders in all cases; I should require every judge and every pleader, in all the courts in India, to know the language of the court, and that language ought certainly to be, in the Sudder Dewanny Adawlut, Hindostanee. In Bengal, it would be Bengalee perhaps, because that is the vernacular. With regard to the pleadings, again, I think all languages which are spoken by a sufficiently important class of the people, and are understood by the judge, ought to be put on the same footing; the Persian, for instance, as the written language of Mahomedans, I would put *pari passu* with Bengalee in Bengal. Upon the same principle, I think the English language ought to be now admitted, just as the vernaculars of the country. I say it ought to be admitted, but not, certainly, compulsorily introduced, for I think that would be unfair; I think we ought to avoid everything like partiality in favour of our language, or any of our institutions; but I think it might be admitted *pari passu* in every case where there is a judge who understands it: and, therefore, in the Sudder Dewanny Adawlut, in the zillah courts, and in the proceedings of the collectors, in fact, everywhere where there is an Englishman presiding, I think the English language should be permitted to be used on the same footing as the vernacular of the country; but wherever there is a native judge who does not understand English, the English language should be still excluded as it is at present.

3444. You think it should be optional with the parties interested in the cause to ask that the trial should take place either in the English or the native language?—Yes. I will mention what is the case now in Bengal: the language of the courts in Bengal is Bengalee; the Mahomedans are very much in the habit of still using the Persian language as their language of writing; the Persian language is, in fact, the written vernacular language of the Mahomedans. That was objected to by a judge at Dacca. The question was brought by me to the attention of the Sudder Court: I applied that the Persian should be admitted with Bengalee, and so it was determined by the court. It strikes me therefore that, on the same footing as the Persian is now admitted in all the courts where there is a judge who understands it, the English language ought to be admitted to be used too; but it should be left to the parties to take whichever language they pleased.

3445. Do you think it would be expedient to appoint English barristers to the office of judges in the Company's courts?—It appears to me that that measure is exposed to very many objections: in the first place, I do not think English barristers would be very well qualified; it would be very hard work for them

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to learn the languages, and even when they had done so, they would have still a great deal to learn as to the manners of the people: English barristers would bring with them certain qualifications; they would bring a knowledge of the English law, and an acquaintance with judicial business, and also some peculiar notions on the subject of evidence; I think all those peculiar notions on the subject of evidence would be a positive disqualification. Such a barrister would very soon find that he could not proceed at all, and he must either throw away his notions of evidence, and decide in the teeth of the evidence very frequently, or he could not decide at all. I think it would be a long time before he could bring himself to that alternative, and therefore he would be a very unfit person. Secondly, I think, from his familiarity with the English law, he would be constantly applying it. He would fancy there was no difficulty in the cases which came before him; he would not understand the ordinary national peculiarities of the natives; he would know nothing of the peculiar ideas under which a contract originated, and he would apply that very definite rule with which he was acquainted, in which case he would, I think, be constantly acting unjustly. I think, for those reasons, an English lawyer is, perhaps, the worst person you could select for the purpose. But, further, I think he would be very objectionable on another ground. It appears to me that it would be introducing a new principle of exclusion. The native would understand nothing except that a person was brought from a remote country, and that that person was put into a position to which he could never rise. It appears to me therefore, that instead of the principle of exclusion which is now familiar to him, though I do not know that he is quite reconciled to it, you would be introducing another entirely new principle of exclusion, which would present itself to the native mind in its worst of all shapes, that is, in the shape of a national exclusion. He would think he was excluded for no other reason than that he was a native, which is the worst possible feeling you could excite in his mind. And further, I regard the native at this moment as in the highway to be very soon competent to perform the highest judicial duties in India. I do not think he is entirely fit to do so now, intellectually, and I would not trust him with it till he has a sufficient law for his guidance. Morally, too, I think his countrymen are of opinion that he cannot yet be trusted with such functions; but I think all those causes will very soon pass away, and the natives of India will be fitted to hold the offices of the highest judges in the country. If that should happen, what will be the consequence? Instead of the principle of exclusion which now exists, which everybody believes is temporary, you will introduce a principle of exclusion which will ultimately turn out to be a permanent principle of exclusion; because when once English lawyers get their grasp upon the situation of judges in India it will be very difficult indeed to loosen them from it. Keeping entirely in view, therefore, the advantage of the native, to which I wish to subordinate all other considerations, I desire to keep the door as wide open as possible, and to preserve an exclusive system, which appears to me to be temporary, rather than adopt another to which I see no end.

3446. What would be your opinion of the system of appointing a native judge to sit with a European judge in the zillah court, and if there were a difference of opinion, requiring that that difference of opinion should be reported to the higher court?—In the first place, I do not think it would be of any use; the two judges would do much better sitting alone; they would decide more cases if you left them separate. Secondly, after consideration, I am of opinion that they would not work well together. I have had some experience upon the subject myself, not of course as a judge, for I never was a judge, but as a pleader. I was constantly in the habit of having native pleaders joined with me in cases. I think, upon the whole, I conducted myself upon a principle that was calculated to be very conciliatory to them, and I may say, without assuming too much, that, generally speaking, the native pleaders preferred me to some of their countrymen. But notwithstanding all that, and notwithstanding that we had the Regulations and a great deal in common, we never had any consultations together. Each man took his own course, and I never remember that we so much as considered in concert what we should do in the cause. It appears to me that that would be very much the position of two men on the bench. It is very easy for men who are acquainted only with the natives of Calcutta to say that a native and a European would do very well upon the bench together; but the fact is, that the native

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native of Calcutta is in that respect only an Englishman in the native dress; he would generally have the same ideas as an Englishman, and probably they would concur very well together. But the native of the Upper Provinces is without all that English education, and those English notions. If I had him seated by me, and we were both deciding even a case of Mahomedan law, where we should have many ideas in common, I should not derive the least benefit from his assistance, nor he from mine. I think time would be wasted in my attempting to bring him over to my opinion, and, upon the whole, it would be better that I should be left to myself. I think that is likely to be the general feeling. I have spoken upon the subject with men who are very well acquainted with the character of the natives in the Upper Provinces, and they concur with me in thinking that it is hardly conceivable that persons with ideas so entirely different as natives and Englishmen should work well together as judges.

3447. There has been evidence given before this Committee of a character to convey the impression that the European judge might be deficient in knowledge, and there might be suspicions of the motives of the native judge, which would not apply to the European; would not the union of the two correct the defects which might be found in either?—The English judge might be deficient in knowledge, but I do not think the deficiency in his knowledge of the law could be supplied by the native judge; I cannot conceive of any deficiency upon the part of the English judge which could well be supplied by the knowledge of the native judge, except with regard to the manners of the country; and I think, upon the whole, that an Englishman who has been a sufficient time in the country is quite competent to form his ideas upon that subject without the native's assistance. But on the other hand, it is said that the suspicion which might be attached to the native would be counteracted by the general opinion of the honesty of the European. I have no doubt that would be the case, but I cannot see much good to arise from it. I think the European is well qualified for the work without the native's assistance, and if they are to be both employed, it would be better that they should sit separately than together.

3448. A suggestion has been made that native judges might be admitted to the sudder courts; would you recommend that that should be done?—No; for the same reason for which I think, upon the whole, they could not at present be safely admitted to the zillah court, I do not think they could be admitted to the sudder court. There is no doubt that there they would have the assistance of English judges, but, for the reason that I before gave, I think their presence would be of no use to the English judges; it appears to me that the English judges are quite competent for their duties at present. I remember a great many judges who have sat in the Sudder Dewanny Adawlut; I knew some few there who were certainly inferior, some superior, but I must say that the average of the men I have met with in that court were fully competent to the discharge of their judicial duties, and that they did not require the assistance of the natives, or anybody else.

3449. Sir *T. H. Maddock.*] Considering that a native judge in a zillah court would have a much more perfect knowledge of the language and the habits and feelings of the natives than the English judge could ordinarily possess, are you of opinion that he might not be of assistance to him as an assessor?—I would not say that he would be of no assistance to the English judge, but my idea of an English judge who has acquired a sufficient experience of the natives, is that he is perfectly competent to those duties without the assistance of a native, and therefore it would be superfluous. Most of the judges I was acquainted with appeared to me to be quite competent; I should have preferred their judgment to that of any native, or any combination of natives.

3450. Sir *J. W. Hogg.*] Do you think that Hindoos and Mahomedans in a respectable situation of life are as conversant with the Hindoo and the Mahomedan law as people of a corresponding position of life in this country are with the law of England?—It is very difficult to answer that question. I should say that the Hindoos in general do not know much of their own law, beyond the law of inheritance. I think the Mahomedans, particularly those who have been educated in the Madrissas, know in general a good deal of the law; but that is confined to people of education. I do not think the people at large can be said to know either of those laws to anything like the extent to which persons in the same rank of society would be supposed to know the law in this country.

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3451. Law and religious usages are very much blended among the Hindoos, are they not?—In matters of inheritance they are. The fact is, there is very little Hindoo law beyond the law of inheritance, and the law on collateral subjects, the law of adoption, the law of marriage, and the law of partition.

3452. The particulars you have now enumerated embrace almost the whole social law of the Hindoos?—I should say so.

3453. Are not Hindoo families of ordinary respectability generally very conversant with those laws and usages?—They are conversant with the law and the usages generally, but I do not know that many of them could enter minutely into the law of inheritance; they would know generally, of course, that a son succeeds, and a daughter does not, and that the widow succeeds where there are no sons, and general matters of that kind, but I do not know that they could enter much into minute distinctions of the law.

3454. Sir *T. H. Maddock.*] Are they in the habit, when any misunderstanding arises, of applying for a bewusta or other authority of some man learned in the law?—I think they would usually before commencing a suit apply for a bewusta, but I do not know that it is a very general practice; bewustas are always given by the pundit in the Sudder Dewanny Adawlut.

3455. Sir *J. W. Hogg.*] Are you aware whether, since you left, a rule has been introduced requiring that no person should be allowed to practice as a vakeel, even in the subordinate courts, without undergoing an examination as to his qualification, and producing certificates as to character?—I do not know it of my own knowledge, but I have heard that there have been some rules lately introduced to secure the better qualification of the vakeels.

3456. With respect to the questions which you said the judges in the Sudder Dewanny Adawlut put to the vakeels, are the Committee to understand that the object of those questions is to ascertain whether some particular fact is or is not in dispute between the parties?—Not merely whether it is in dispute between the parties, but whether the fact be so or not; because if it were merely whether it were in dispute between the parties, that question would be determined by a reference to the record; I think that generally the question went further than that, and I have known the native vakeels very much praised by their clients on account of their readiness at an answer; I am sorry to say that those instances which were given to me, seemed to be rather adroit evasions, if they were not something worse.

3457. You are conversant with the practice of the English courts as well as with the practice of the native courts; is not it a usual and common occurrence for the judge to ascertain from a barrister what certain facts are or are not admitted, or are or are not at issue?—Yes; and it was just for that purpose that I, as soon as I began to have some practice in the courts, suggested to the judges that I might save them a considerable amount of trouble by a statement of the facts which were not in dispute. But those are not the questions I allude to; I refer to questions with regard to particular facts which may arise in the case which the judge is in the habit of putting to the vakeels; and I have seen a question put to a vakeel to which it was impossible for the man to have given a true answer without betraying the interests of his client. I could say with perfect truth that I did not know it because my client did not trust me with the knowledge of that fact. Frequently I had reason to suspect that I was not in the confidence of my client. I suppose for the reason that he thought if I were exposed to that species of catechizing, I should not be equally ready to give the answer that he was in the habit of having from his countrymen.

3458. If the native vakeels were so reckless as to the nature of the answers they would give, would not it have been rather perilous to suffer them to make such a statement of facts to the judge as an English barrister makes?—I believe that the judges distrusted the vakeels, and felt that they could not entirely depend upon the statements which would be made by them; but it appears to me that all those fears are, generally speaking, referable to the system which has kept the vakeel in so depressed a state.

3459. Is it your belief, that if the character and position of the vakeel were raised to the extent that you think they ought to be, there would be no difficulty in the judges adopting the usage which prevails in the Queen's courts, of allowing the vakeels each to state the case of his client?—I think there would be none; I think it would save the time of the court to a great extent, and that it would relieve the judge very much. I think there is a great deal of obloquy

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obloquy cast upon the judge unjustly; people are not aware of his real position; he is a man who is left almost entirely to himself, quite unassisted: he has to investigate facts; his judgment is frequently biassed in the course of the investigation; he comes to the end of it, after a long and wearisome sitting of two or three days perhaps, and then it is not surprising if sometimes he commits a mistake in his judgment. My wonder rather is, not that the judge is considered to be deficient when compared with the higher standard in the Queen's courts, but that he is as good upon the whole as he is.

3460. From your experience, is it your belief that justice is generally administered by the Company's civil servants with ability and with integrity?—It is administered certainly with integrity; I never knew anything like an exception to that. I should say that justice is always administered with integrity; I think likewise that very generally it is administered with great ability. I think the men I have seen in the courts, were some of them the best qualified I could have picked out from India for the office; but I think still there were a good many cases, which no man, it does not matter what his capacity is, even if he were the Lord Chancellor or Lord Chief Justice, could justly decide, from the want of some previous rule. I have sometimes been driven to argue upon questions so simple as this, what was a sale? If you put the question how any contract is constituted, there is no man that can venture to answer.

3461. Having had so much communication with the natives of India as you have had, in your opinion is there a general impression upon their minds that justice is fairly and impartially administered?—The native has a general feeling against the honesty of all judges; I think that general feeling has given way entirely with regard to English judges, and I think, as a general rule, the native believes that an English judge is usually honest; the feeling of suspicion I think still exists with regard to the native judges.

3462. My question applied to the feeling entertained by the natives of India respecting the manner in which the revenue and judicial duties are performed by the Company's civil servants; have they confidence in the integrity and honesty with which those civil servants discharge their duties, both judicial and revenue?—I think, with regard to judicial duties, they have a general impression that the judicial duties are honestly performed by the English judges. With regard to the revenue department, I cannot speak so exactly: I think there is a great deal of soreness in the native mind, which I should account for by the resumption regulations; there may be some exceptions; I do not know that it is so, but I think the native mind is in that state with regard to revenue questions, that it can hardly be expected to arrive at the expression of a fair judgment; but, apart from that, I think the impression is very strong that the English judges generally act honestly.

3463. With regard to those resumption regulations, did not the feeling of irritation arise as much from the positive enactment respecting the resumption as from the manner in which that enactment was carried into execution?—I think the natives did not draw any distinction as to the manner; to the native it was the same thing (I do not know that he was quite right) whether it was decided in the Sudder Adawlut or in the way in which it was; it was to the fact of the resumption that he objected.

3464. The native thought that any enactment whatever directing an inquiry with a view to a resumption, under any circumstances of those lakhiraj lands, was not only an impolitic, but an unjust enactment?—I think that that was the feeling on the part of the natives.

3465. Do you think in principle there is any great difference on the subject of contracts between the English law, the Mahomedan law, and the Hindoo law? —With regard to the Hindoos, I think they have scarcely any law upon the subject; I had to examine the Hindoo law of sale, and I could scarcely find anything but the most trivial remarks contained in it; I think, however, there is a material distinction between the Mahomedan and the English law of contracts. With regard to the construction of the great contract of sale itself, they are constructed, as I have already observed, with reference to two different principles, one leaning entirely to the purchaser, the other leaning almost entirely to the seller; the English law of *caveat emptor* being favourable to the seller, the Mahomedan law, on the other hand, which gives an option and a general warranty against defects, leaning to the purchaser.

3466. Can Englishmen now with due diligence become acquainted with the principles

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principles of the Hindoo and Mahomedan law, both as regards succession to inheritance and the law of contracts, from existing publications of authority in the English language?—I should say not the Mahomedan law generally; I think he can with the Hindoo law.

3467. Has not the deficiency in regard to the Mahomedan law on the subject of inheritance been to a considerable extent supplied of late, and partly by your own labour?—There is no doubt felt in regard to the Mahomedan law of inheritance, for it is very well defined, and very generally known.

3468. Is that the case with regard to the Hindoo law?—I think it is the case with regard to the Hindoo law of inheritance; I think the decisions of the courts, the opinions of the pundits, with the translations of the dyabhaga and the mitacshara, supply abundant materials to enable any Englishman to decide all the cases which occur.

3469. Do not all the rest of the cases, except those which you have enumerated, resolve themselves into something like the questions which arise in courts of equity in this country?—It is so in the Company's courts; that arises, I think, very much from the courts themselves; they are called courts of equity and good conscience. It is very difficult in many cases to reduce the cases to any principle of law, and the judge is obliged to form his opinion from a number of minute circumstances, and come to the best decision he can upon the whole of the facts.

3470. Admitting the analogy, were not the courts of equity here very much guided by equity and good conscience till constant practice and continued usage had reared up a system which became, in fact, a judge-made system of law?—That is the origin of the decisions in the courts of equity, certainly. They were at first decisions of equity; they are now as much decisions of law as the decisions of the courts of common law.

3471. If we had the decisions of the Sudder Dewanny Adawlut and the other courts in India reported, should not we have something to guide us which would be very much like that which guides the decisions in the courts of equity in this country?—I should regard it as a very insufficient guide. My opinion is, that the cases are not parallel; I think a great deal of that similarity of decision which has arisen in the case of the English law, arises from the fact that English law has followed very much English customs. In the courts of equity, equity is very much founded upon the civil law, and perhaps the civil law is the general law, which has kept things nearly in the same channel in almost all the countries of Europe; and if you had commenced in India with any one law, if civilians had been taught merely the civil law, and nothing but the civil law, or the Mahomedan law, and nothing but the Mahomedan law, I believe before this time you would have had a long and consistent course of decisions, and very likely a law, which to a very considerable extent, would have supplied the present deficiency. You have not that, however, and I believe the reason is, that there has been no common standard to which any man could refer. No man can refer to anything but his own ideas of equity, and the ideas of two men do not very frequently concur. I believe it is impossible, unless you commence with some common standard, to have a consistent system of law arising out of decisions.

3472. Mr. *Mangles.*] Has not the law of Lord Cornwallis placed the Government upon a footing of perfect equality with its subjects in all matters of litigation whatever?—I think it has.

3473. As you have been the pleader of the Government in the Sudder Court, and have been cognisant of many of the cases brought by appeal from the lower courts, under such circumstances will you state whether you believe that the native subjects of the Government obtain full and substantial justice in all matters of dispute concerning revenue, whether land or salt revenue, or otherwise?—Certainly; I never saw anything like partiality in favour of the Government, I should rather say the feeling was frequently against the Government. I do not think it existed much during the time I had the charge of the Government cases, for there were very few failures; but I have heard it said, that there were some judges who always decided against the Government. Whether there was any truth in that statement or not I cannot say. During my time the Government was successful in a very large proportion of the cases which came into the courts.

3474. Is not there another safeguard; is not the collector, before he brings an

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an action on the part of the Government against any individual, and before he defends a suit brought by any individual against the Government obliged to apply to the Commissioner or to the Board of Revenue for permission to bring or defend such an action?—Yes, that is the practice.

3475. All cases which are not clearly such as the Government ought to bring or to defend, are given up by the superior revenue authorities?—I think it must be so, and to that I would ascribe more than to any other cause, the almost uniform success which attended the Government cases when I had them. At one time I made a calculation, and only about seven per cent. of the Government cases failed.

3476. Is not that a very honourable peculiarity of the law of India as compared with the law of England?—I think it is; there was complete impartiality certainly in the Sudder Dewanny Adawlut, and the courts subjected to it, so far as the Government were concerned.

3477. Are you aware that in this country the Crown has great privileges in that respect?—Yes, I believe they are to be abolished; but the Crown has the privilege of not paying costs.

3478. Has not the Crown the privilege of not allowing suits to be brought? —I cannot say what the practice is upon that subject.

3479. You were asked whether vakeels were ever appointed to the native bench, and you answered as if they were never appointed, except to the lower grades; are not you aware that in many instances vakeels of high reputation are appointed in the first instance to the office of Sudder Amin?—I am very glad to hear that that is the practice; I do not think it was the practice when I was in India; I recollect remonstrating with some persons who I thought had some influence, and pointing out that I thought those situations ought to be filled by vakeels of good practice in the Sudder Dewanny Adawlut. I do not know what the practice may be now; of course, at first when those situations were filled up, many of them must have been filled up by the appointments of vakeels, but I have always understood that the native judicial service was constructed upon the principle of promotion from the lower grades.

3480. You recommended the abolition of the jurisdiction of the Moonsiffs; do you mean that the Sudder Amins should be stationed in different localities about the district, or remain at head-quarters?—There is a distinction between the two classes of cases I have mentioned, summary cases and the regular cases. In the summary cases the general rule ought to be for the parties to appear in person, and it would put the parties to great inconvenience if they had to come to a distance from their homes. Those cases would not be the cases decided by the Sudder Amin. In the regular cases, I think, there is always a professional agent appointed, and therefore it is a matter of no consequence where the Sudder Amin happens to be located. His best position is to be at the head-quarters of the zillah judge; and the great advantage of that would be, that there might be vakeels practising before the zillah judge and before the Sudder Amin and the principal Sudder Amin altogether. I think it is very important that there should be no petty vakeels.

3481. You spoke of the almost universal untrustworthiness of the native witnesses. I remember a passage in Mill's "History of India" in which he says "Such is the great difficulty of administering justice to a people without the assistance of themselves, and such, in the present condition of the people of India, is the impossibility of obtaining that assistance." Does your experience bear out that statement?—In the administration of criminal justice, I think the assistance of the people is a very desirable thing; but I do not think it is a matter of much consequence in the administration of civil justice. It appears to me that there is very frequently in the cases which come into the Company's courts, without reference to the evidence given by the witnesses, a good deal from which the judge can infer sufficient to enable him to decide. I do not see how the assistance of the people could be of much use except in the administration of criminal justice. In aiding the police it might be of great importance.

3482. I remember the circuit report of a judge, in which he says, "I have been trying such and such a case of gang robbery; the parties accused have been positively sworn to by many witnesses, but it is impossible that I can convict him to my own satisfaction without circumstantial evidence, because if a judge were to act upon such evidence as I have in this case, no man would be safe to whom a zemindar had any enmity;" do you think that a

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correct expression of the state of things?—I think it is very likely. I think there are many cases in which the decision is contrary to the evidence, but it is very likely that those decisions have been nevertheless quite correct. The truth is, there is a great peculiarity in regard to the testimony of witnesses in the Company's courts. I think it arises from some peculiar views that the natives entertain of the nature of evidence. Everybody who is much acquainted with the depositions of native witnesses, must have observed that they are, generally speaking, direct; they are nearly as direct as possible to the point at issue; there is not much circumstance introduced into their depositions; the circumstances which are introduced seem to be introduced for the purpose of giving them credibility. It appeared to me that the natives had an idea that that kind of evidence, evidence direct to the fact which was in dispute, was necessary to the correct decision of the case. I think that oral evidence was frequently superadded upon the idea that it was necessary, when it would otherwise not have been introduced into the case. It was frequently put in as a sort of additional ornament to the case, as if that was necessary. My idea of it is, that in the native mind there is a notion that no case is sufficiently got up unless there is an addition of that kind of direct evidence.

3483. Does not the state of things of which you have spoken render it necessary to make great allowances for the difficulty experienced in the administration of justice in such a country?—I think a judge is placed in a most embarrassing position, and that it is very difficult without taking that into consideration to come to a fair opinion as to the manner in which he performs his duties; and my impression is that there is a great deal of unjust obloquy cast on the administration of justice by the judges in India, entirely from ignorance; the people at large do not know what the judges have to do. If they really saw the amount of labour which is cast upon the judges, they would judge of them much more fairly than they are in the habit of doing.

3484. Mr. *V. Smith.*] You stated that you entertained a very low opinion of the veracity of the natives in oral evidence; do you mean that you entertain a better opinion of their truthfulness in giving written evidence?—I cannot say that; I distinguish oral evidence from the remaining circumstances of the case. There may be many circumstances, such as English letters, or previous decisions, or the proceedings of a collector in a case, but I do not make any distinction between oral and written evidence, except this, that it is more difficult to forge a document than to suborn a witness; and there are many cases in which there are witnesses who speak falsely where there are no forged documents, but there are cases also where there are most palpable forgeries.

3485. You stated that in cases in which you were concerned, you put aside the oral evidence; upon what then did you rely?—There is a great deal to be inferred from the statements of the parties themselves.

3486. Are they written or spoken?—The written statements of the parties. There must be a certain coherence in a plaint; a man may be sometimes convicted out of his own mouth. That was my practice; and I believe generally my practice was successful in that court. I do not recollect at this moment that I ever had much occasion to refer to the testimony of the witnesses.

3487. With respect to the belief you entertain that there is confidence felt by the natives in the integrity of the British judges, did you ever happen to hear of any attempt, on the part of the natives, to tamper with the judges?—I do not recollect, in my own time, any attempt of the kind. If there is what is called a black sheep in the service, the natives find him out long before he is suspected by the Europeans in general. I do not recollect any particular cases, except one or two, which are notorious, of persons who have been brought to trial. I do not think that, generally, it would be believed that an English judge is exposed to the suspicion of pecuniary corruption. In general I may state that the native agents, who are frequently employed in addition to the vakeels, are really the origin of much of the suspicion which is cast upon the judges and judicial functionaries; their object is to extort as much as they can out of their constituents; they make all sorts of pretexts for requiring money, but I do not think any such agent would hope to extort from his constituent anything upon the ground of a direct bribe given to an English judge.

3488. As to the native judges, is it the habit to solicit them?—I cannot say; I never knew an instance of the kind; there is a very general suspicion

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picion on the part of the natives with regard to the native judges, but I never knew a case which was brought me for appeal by a native, where, though he had all manner of objections to the decision, he charged the judge with corruption. I remember frequently hearing the opinion expressed, that there were only two honest men among all the native judges, but I did not believe it myself. I think the native judges were very generally honest, but unfortunately the suspicion of their countrymen still attached to them, because it had attached originally to the judicial character; that general suspicion I believe is now done away with as far as the European is concerned, and I think it will be very soon done away with in the case of the native judges, by the experience that will be afforded of their honesty.

3489. Should you give the same opinion with respect to the possibility of obtaining a decision by means of partiality and influence?—With regard to favour and influence, it is almost impossible to dispossess the natives of the idea that every judge is open to that kind of corruption, that is, speaking generally; but the natives who were about the Sudder Dewanny Adawlut knew very well that the judges of that court, in general, were men whom it was impossible to influence in that way; still, however, I think the general feeling exists, that almost all judges are open to some sort of general influence or favour; they are very much inclined to say, that a case has been decided against them from some partial feeling.

3490. Mr. *Labouchere.*] In cases between Europeans and natives, is there any belief of the existence of an unfair bias in favour of the former?—I do not think there is; I should think if there were any bias in the mind of an English judge it would be rather against his countrymen than in their favour.

3491. And you think there is a general belief in their impartiality in that respect?—I think so. I still think that the natives of India have that universal feeling, that all judges are exposed to some sort of influence; and I am sorry to say it has been played upon to a very considerable extent by persons in India, who have, in some cases, written to judges to bespeak their favourable consideration of causes which were before them. I have known that to be the fact in several cases. I remember a judge of the Sudder Dewanny Adawlut showing me a letter which he had received; "See," he said, "the manner in which we are treated." This was a letter from an European gentleman, high in society, requesting the judge to look favourably upon a case which was then before him. The judge said, "I was going to decide this case in favour of the party who brought me the letter, but after this I must send it on to another judge."

3492. Did he read the letter publicly?—He said if it occurred again the only thing he could do was to file a similar letter in the proceedings. I think the impression on the native mind that the judges may be influenced is very much kept up by the vicious practice, of which I have given the Committee an instance. I do not think the impression is just, and as regards particular judges, I am quite convinced that the natives were fully of opinion that those men, at any rate, were quite beyond any influence of the kind.

3493. Mr. *Elliot.*] Were you the vakeel in the case in which the letter was shown?—No.

3494. With respect to the duties of judges in India you have already given your opinion as to the disqualification of legal gentlemen from this country to occupy those places; the questions which have been put have had reference to their actual judicial duties in deciding cases; is not there also a large mass of miscellaneous business belonging to each court?—There is a great deal of miscellaneous duty; it comes generally in the shape of a petition; it is in its nature summary; there is a great deal of it in connexion with the execution of decrees. The judges all execute their own decrees; the zillah judges have also to execute the decrees of the judges of the Sudder Dewanny Adawlut. In the execution of decrees a great many tortuous questions arise which, I think, would very much embarrass a man just come out from England. I do not know any case more likely to try the temper and throw a man into perfect despair if he were in the situation in which I have seen judges under such circumstances. I will mention one case which occurred in the execution of a decree for the recovery of costs advanced in England by the Court of Directors with regard to the conduct of an appeal in the Privy Council. In this case the parties had come to a compromise; the compromise

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compromise was sent to England, and was embodied in the decree. The case had been conducted under Lord Brougham's Act; very considerable expense was incurred, and that expense the Court of Directors paid in the first instance, having to receive it from the appellant afterwards by the execution of the decree in India. The decree came out to be executed. It was sent to me for the purpose. The first question which arose was a dispute between the two parties to the original case with regard to a new document that was said to be forged, throwing the costs entirely upon one of the parties. After that was decided, five or six separate claimants started up for the property which was seized in the execution of this decree, and each of those claims was, in fact, a distinct case; those cases involved revenue matters; the claims, generally speaking, applied to land paying revenue, and the business to be done would, in fact, be equal to five separate suits. Cases of that sort, I think, would be very much calculated to embarrass an English judge appointed in the manner which has been suggested.

3495. You stated that you would recommend that English, Persian, and Bengalee, and whatever language might be used in the province, should be used in a cause in the Mofussil before an English judge?—Yes.

3496. Do you mean that in the same cause one vakeel might plead in English, and another in Persian, or in Bengalee?—At this moment one vakeel may do so, unless the rule has been abolished; a vakeel might put in a pleading in Persian, in answer to a plaint in Bengalee. In the same way wherever there is an English judge, I think now the time has come when the English language may be put upon the same footing with the Persian, and the other vernacular languages of the country; whether the opposite vakeels understand English or not, it should be permitted in such cases.

3497. If there are oral pleadings, how are the two vakeels to conduct them in those languages?—That is a difficulty which may occur in all countries where the people speak different languages.

3498. Sir *T. H. Maddock.*] An opinion has been expressed by some of the witnesses before the Committee, in favour of an amalgamation of the Supreme Court and the Sudder Court in Calcutta; will you favour the Committee with your opinion upon that subject?—In the first place I do not exactly understand what the amalgamation would be, or what the duties of the amalgamated court would be.

3499. It has been suggested that this court should consist of some of the present judges of the Sudder Dewanny Adawlut, and of certain judges appointed as the present judges of the Supreme Court are, and that they should sit together and be a general court of appeal from all the territories of Bengal?—That is, I presume, that they should be a court of appeal from the Supreme Court, and also from all the Company's courts.

3500. From another court which would take the place of the Supreme Court as a local English court of law?—I should rather confine myself to that part of the subject which I best understand; that is, how it would work with regard to the native causes. It appears to me that an appeal court, formed of English barristers or English judges, and the present judges, would derive no advantage from such a combination. I look upon the Sudder Dewanny Adawlut as perfectly competent for the duties it has to perform, and I do not see that a combination with it of any English judges would benefit it. I think, on the other hand, that they are not likely to work well together; the notions of the men would be perfectly distinct, and they would not be of much service if brought together.

3501. Are you aware that in February last I presented a petition to the House of Commons from certain Hindoo inhabitants of Bengal, Bahar, and Orissa, for themselves and the other inhabitants of the same provinces?—I do not recollect the particular petition.

3502. It is a petition complaining of the passing of Act 21 of 1850, which was an extension of the provision, Section 19 of Regulation 7, of 1832, to all India?—I am aware that such a petition was presented.

3503. Will you state your opinion upon the merits of that petition?—I suppose generally that the object of the petition was to object to the passing of that Act, and that it is with regard to that that my opinion is asked: I think the question involves one of policy, on which really I cannot venture to express any opinion; but if my opinion is asked in regard to its operation upon the Hindoo law, I think

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think it was inconsistent with the Hindoo law, that it was a subversion of the principles of the Hindoo law, and that in its operation it has an unequal effect in Bengal and in the Western Provinces. Those appear to me to be some of the objections to that measure.

3504. Will you explain from what the inequality arises?—The inequality is this: by the Hindoo law of Bengal, a Hindoo has it in his power to counteract the effect of the law by his will; in the Western Provinces he has no such power with regard to his patrimonial estate. The Mahomedans, also, have no power of bequeathing their property beyond the third.

3505. That Act was the extension of a clause in an old Regulation, applicable only to Bengal, to the Mahomedan and Hindoo inhabitants of all the rest of India?—Yes, it seems to be so.

3506. Mr. *Lowe*.] You have said that there is a certain amount of suspicion still attaching to the native judges, but not to the European judges: is there any suspicion in the native mind as to the means by which reversals of judgments given in the inferior courts may be obtained, on applying to the Sudder Dewanny Adawlut?—No, I think not.

3507. There is no impression that a rich man has a better chance than a poor man in getting a decision reversed?—I should say certainly not; I do not think there is any impression of that kind.

3508. Sir *T. H. Maddock*.] Is it your opinion that the inferior officers in the Sudder Dewanny Adawlut and the other courts where English judges preside are never bribed?—There was at one time, I believe, a good deal of corruption among the native officers, for a particular reason: the judges were in the habit of sitting separately at that time. All the time I was in the court, up to a very short period before I left it, the judges pursued that practice of sitting separately, and then it was considered a matter of great moment sometimes to get a case before some one particular judge in preference to another. That is another exemplification of that diversity of opinion which I before referred to; the judges, in fact, were known to think very differently on certain subjects. There was a great deal of money said to be given to the native omlah, for the purpose of securing their influence in getting the case sent to one judge rather than another. I do not think there was a great deal of money actually given, but it was always a common pretext of the mookhtar that a great deal of money was necessary for the purpose. I do not think there is any necessity for it now, and if the native officer gets anything, it is very trifling.

3509. The mookhtar would not be very scrupulous in such a case in inserting a large sum in his bill to his client, would he?—He would insert every possible item in his bill that he thought he had the least chance of getting credit for. The bill, I understand, begins in Calcutta, with the goddess Kalee, who is usually put down for a considerable figure. I have understood also that the vakeels sometimes stood for considerable sums in the mookhtar's bills, and so did the omlah. Very frequently a large sum would be put down as having been given to the omlah when nothing of the kind was given.

3510. Sir *T. H. Maddock*.] You have spoken of the almost universal falsehood of the native witnesses?—I stated that there appeared to me to be some peculiar notion in the mind of the native, that it is necessary to garnish all their cases with some amount of oral evidence, whether it is really required or not, and that leads to a great deal of falsehood.

3511. Do you limit that remark to Calcutta and its vicinity, or do you extend over the whole of Bengal and the North Western Provinces?—Of the North-western Provinces, I know nothing practically, and I could not form any opinion with respect to them. In all the cases that I had to do with from the three Provinces of Bengal, Bahar, and Orissa, I think it was the feeling of almost all the judges, that there was no reliance to be placed upon oral testimony, and that in those cases the judge must, from all the circumstances of the case, endeavour to find his way to a conclusion in the best way he could.

John Clarke Marshman, Esq., called in; and Examined.

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3512. *Chairman*.] WILL you state to the Committee for what period you resided in India, and what were the occupations which you followed?—I went out to India, a second time, some 29 years ago, and I have continued to reside near

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near Calcutta ever since that time. I established the first newspaper in the Bengalee language more than 29 years ago, with a view of promoting a spirit of inquiry among the natives. I was for 18 years editor of a weekly journal, called "The Friend of India," and I was employed for 13 years as the Government translator in the Bengalee language. All these occupations brought me into constant intercourse with natives of all classes, and with gentlemen, both official and non-official, in the European community, and enabled me to obtain a considerable amount of knowledge of the general character, and the working, and the defects of our public institutions.

3513. You had opportunities of observing the administration of civil justice; will you favour the Committee with your views as to the laws prevalent in the Regulation Provinces, what are their defects, and what are the remedies which you would apply?—The laws which are current in the Regulation Provinces are the code passed by Lord Cornwallis in 1793, with all the additions which have since been made to it, and the constructions put upon it by the Sudder Court, the circular orders of the Sudder Court in explanation of the Regulations, and the cases decided in the Sudder Court, which have extended to seven or eight volumes, and are considered as precedents, and followed as much as the law itself by all the inferior courts. The great disadvantage of this code is its extreme voluminousness. I think it is necessary for any individual who would master the code, to purchase from 15 to 16 quarto volumes, and to read them through. The law has also gradually become more and more complex, and requires a vast deal more study than it originally did. It is also too full of technicalities, because it was originally based, in some measure, upon the English law, and it does require an immense deal of time and attention for any one to become acquainted with it. The law is at present so used by the natives, that almost every suit is a game. And I think the laws, generally, afford more opportunities for defeating the ends of justice than for promoting them.

3514. How would you correct those evils?—I think it is necessary that the laws should be re-modelled, and that we should be enabled to introduce a much more simple system of law, better adapted to the habits and feelings of the people, similar to that which has been introduced in this country into the county courts, and which has been established in Calcutta in the small-cause court; and also in some respects similar to the laws which have been drawn up for the Non-regulation Provinces, and more especially for the newly conquered province of the Punjaub. For the Punjaub a very short and simple code of civil law, or rather of civil procedure, has been drawn up exactly adapted to the wants and to the exigencies of the people, and it has been found to work admirably. It is exceedingly popular among all classes in the Punjaub, and it is found to be the instrument of dispensing substantial justice among them. It is some such simplification, or a code framed upon the same principle, which has been adopted in the courts I have alluded to, that seems to be desirable in the Regulation Provinces. And I may mention, that it is the earnest desire of the present Government of India to introduce a simplification of our laws, and that it was generally expected that the Government of India would be enabled to establish something like the small-cause court, which has worked so admirably in Calcutta, throughout the country, before the end of the present year.

3515. With regard to the gradation of employment through which a covenanted civil servant must pass before he arrives at the office of judge, is there any defect in the existing system, in your opinion?—I think the present system is generally condemned, because a civilian comes to the office of a civil judge that is, a judge of a civil and session court, without having had any opportunity whatever of studying the civil law which is current in the country. The gradation by which a man attains his seat upon the civil bench may be thus described: after a young civilian has left the college, he is employed for the space of six, seven, or eight years as an assistant to a magistrate, or to a collector; he then becomes perhaps acting magistrate, and at the end of about eight years is appointed to the charge of a magistracy; he continues a magistrate till he has been about 15 years in the service; after that period he is appointed collector, and has then nothing whatever to do with the criminal law, or with the police; after having been for six or seven years a collector, he is appointed to the post of civil and session judge, and all the knowledge, or a great portion of the knowledge which he has previously acquired, becomes of very

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very little use to him. As a civil and session judge he has the general superintendence of the judicial administration, as it regards the civil law, of the whole district, and the business of his court is to hear appeals from the subordinate courts, which are for the most part filled by natives thoroughly versed in the law and procedure of the courts, and men who have obtained long and admirable judicial experience; he comes therefore upon the bench, suddenly, to hear appeals from men who are far better acquainted with the law and practice of the courts than himself. This has a natural tendency to deprive his decisions of all confidence in the opinion of the community in general; and it is generally supposed that his decisions are influenced by some one native of the court, in whom he happens to have particular confidence. Of course this feeling of want of confidence in his decisions is gradually removed in proportion as his judicial experience increases; but he labours under the disadvantage of having almost all his decisions received with great mistrust by the people of the country for the first year or two years after he comes to the bench.

3516. What course would you recommend to be pursued to remedy those defects?—I think the remedy should begin in this country, at Haileybury, and that a larger portion of the time of the students at that college should be devoted to the study of the general principles of jurisprudence, and also, in some measure, to the particular laws which are administered in India, and which it would be very easy for them to acquire a knowledge of through a digest. It is indispensable that a civil judge in India should be well versed in the question of land tenures and everything connected with the interests of the agricultural community, because the great majority of the suits that come before the courts are connected with land and with landed interests. As the civil and session judge has to try questions connected with the police and with criminal law, it is likewise necessary that he should have some acquaintance with the law and practice of the criminal courts. If he were appointed, as at present, assistant to the magistrate and the collector, immediately after leaving college and entering upon the public duties of the service, and continued in the gradations of assistant to the magistrate and the collector, and joint magistrate and deputy collector, for the space of five or six years, he would have an opportunity of making himself thoroughly acquainted with the criminal law, with the general police of the country, and with all the innumerable questions which arise out of landed tenures. I think after that period he should be required to make his election either to continue in the collector's branch, or to go off into the judicial branch. I should at the same time mention, that very great disadvantage is universally admitted to have arisen from the abolition of the office of registrar or assistant judge, which was extinguished by Lord William Bentinck some 20 years ago; and it is the universal opinion of all classes, both European and native, that the revival of this office would be an immense advantage in the administration of civil justice. I should think, therefore, that after a civilian has thus been employed under the magistrate and collector for six or seven years, he might be then appointed to the situation of registrar of the civil courts. This would enable him to understand the mode of procedure in those courts, and give him an admirable opportunity of studying the civil law. He would, of course, be employed by the judge in assisting him in superintending the general administration of justice throughout the district, and would become thoroughly acquainted with all the native judges in it. He might also be employed at first in hearing appeals of a definite amount from their decisions. I think that after having filled the office of registrar he should be at once promoted to the post of civil and session judge, without the necessity of his going through the collectorate line for seven or eight years. We should thus have a body of men thoroughly acquainted with the civil law of the country, with the mode of procedure, and with the general working of our judicial institutions before they came to the bench, and I think, then, that the ablest men from among the civil judges should be chosen for the Superior or Sudder Court, and that it should not be necessary for them to go, as they do at present, from the office of civil and session judge to that of commissioner, where they have nothing whatever to do with the civil law, and are engaged entirely in revenue questions. They would thus come fresh from the inferior courts up to the superior court, and I think this would give greater confidence to the people in the general administration of justice;

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justice: because, although the administration of justice in the Sudder Dewanny Adawlut has certainly of late been held in high repute, it was not so seven or eight years ago. Some men were appointed to the bench in the Sudder Court who had never even sat for six months in any civil court whatever, and this had a tendency to destroy the public confidence in their decisions. But if the ablest men are selected from the general civil bench of the country and sent up into the Sudder without any intermediate employment in a line totally foreign from that of civil jurisprudence, it would become exceedingly popular in the country, and would be of very great assistance to the general administration of civil justice.

3517. Mr. *Ellice.*] Under whose administration were those judges appointed to the Sudder Court who had so little experience?—I cannot just now mention the particular administration, but I am certain that three or four judges within the last ten years have been appointed to the Sudder Court who had not been for more than six months civil judges at all.

3518. You cannot recollect the period during which those gentlemen had served in other situations in India than the situations in which they then served?—Some of those to whom I allude had served as collectors, and had been appointed from the office of collector to that of revenue commissioner, and from the office of revenue commissioner had been suddenly put into the Sudder Court.

3519. Sir *T. H. Maddock.*] Do your observations apply to one gentleman who was appointed while I was in India a judge of the Sudder Court, Mr. Colvin; had he any previous experience of judicial business?—Mr. Colvin had had one or two years' previous training in civil cases as Commissioner in the Tennaserim Provinces.

3520. *Chairman.*] Is not the revenue department more lucrative than the judicial department?—The office of revenue commissioner is better paid than that of a civil and session judge, but in the Lower Provinces the collector has 500 or 600 rupees a month less than the civil judge.

3521. So that there is no great inducement in the way of emolument to render the civil servants more anxious to be employed in the revenue than in the judicial department?—Not at all in the Bengal provinces; but I should say that at Bombay the collector and magistrate are upon a par in point of emolument with the civil and session judge.

3522. What is your opinion as to the general character of the European covenanted judges in respect of their incorruptibility, integrity, and independence?—I think the general impression throughout the country is, that they are, with one or two exceptions perhaps, which must be well known to the Government, quite incorruptible. I do not think that was the case 50 or 60 years ago; I think that there was not then the same degree of confidence in the incorruptibility of the European judges that exists at present; but the general impression throughout the native community, with two or three exceptions, is, that the European judge is absolutely incorruptible.

3523. Though the feeling of the natives is one of confidence in the integrity, do they feel any distrust as to the knowledge and legal acquirements of the European judge?—Yes, when he first comes upon the bench; he remains upon the bench perhaps for six or seven years; it is only during the first year or two after he comes upon the bench that his decisions are received with this degree of mistrust, and that the natives believe that, in consequence of his own ignorance of the law and of the practice of the courts, he is obliged to lean to the opinion, and to depend upon the assistance, of some native who is supposed to be a kind of favourite with him.

3524. Mr. *Hildyard.*] In your judgment, would it be advisable that a person, before he was appointed a judge of the Sudder Court, should be subject to any test or examination as to his knowledge and legal acquirements?—I do not think it would be at all necessary, because the civil and sessions judges, after they have been six or seven or eight years upon the bench, do obtain a very good if not a thorough knowledge of the law and the practice of the courts; the Government have always an opportunity of selecting for the Sudder Court men in whom both they and the country have perfect confidence.

3525. Would not the circumstance that they had passed through some such examination give confidence to the natives?—I do not think so, because it would not be necessary.

3526. Mr. *Hardinge.*] Do not the majority of the suits which come before the zillah judge involve questions of land tenure?—The majority of them do; I made a calculation once, and found them to amount to about 57 per cent.; those are questions connected with rent and land tenure in the agricultural districts.

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3527. Are not all the judges fitted, by their previous practical experience in the administration of the revenue, for conducting such duties on the bench?—So far as that goes, they certainly have an advantage; I stated that it would be necessary for them to have six or seven years' experience in the revenue department.

3528. Are not they fitted for the trial of criminals by their previous preparation as magistrates?—Yes, unquestionably; as magistrates they become acquainted with the criminal law, and with the general police of the country, and with the character of the people.

3529. Is the system of selection by seniority practically in force?—I think it has been almost universally followed in Bengal; that is, if you take the Directory, you will find that almost every man of a certain standing is a civil and sessions judge, one after the other; coming down to the last man, you find the collectors begin, and every man is acting as collector in succession, till you come down to the grade of magistrate; I think the system of seniority has been almost universally followed in Calcutta.

3530. Have not you known instances of great complaints on the part of civilians of having been disappointed in their expectation of promotion to the office of judge?—I have heard of such cases, and I think that the exception there proves the rule. In two or three instances in which the Government has found it necessary to supersede some man of inferior talent, there have been remonstrances made to the Government, as though it was breaking through a sacred and binding rule.

3531. Are you aware that Mr. Thomason has appointed one of the youngest and best judges in the North-Western Provinces to the Sudder Court?—I am speaking of the Bengal Presidency. Mr. Thomason seems to have a very profound contempt for the whole principle of seniority; he has appointed a young man of not 10 years' standing to the office of Registrar of the Sudder Court, which is worth 2,500 *l.* a year; but I do not think anything of the kind has been done in Bengal, in the judicial line.

Jovis, 28° *die Aprilis*, 1853.

MEMBERS PRESENT.

Mr. Baring.	Mr. Vernon Smith.
Sir George Grey.	Mr. Edward Ellice.
Sir T. H. Maddock.	Viscount Jocelyn.
Mr. Spooner.	Mr. Cobden.
Mr. Elliot.	Mr. Lowe.
Mr. Mangles.	Mr. Hardinge.
Sir J. W. Hogg.	Mr. Baillie.
Mr. Hume.	Mr. Macaulay.
Mr. Milner Gibson.	Mr. R. H. Clive.
Mr. Labouchere.	Mr. Newdegate.
Sir R. H. Inglis.	Mr. J. Fitzgerald.
Sir Charles Wood.	

THOMAS BARING, Esq., in the Chair.

John Clarke Marshman, Esq., called in; and further Examined.

3532. *Chairman.*] THE questions put to you on the last day applied to the general character of the judicial system in the administration of civil justice, and to the qualifications of the European judges. The Committee will now pass to the administration of civil justice by the native judges, and your opinion with

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with respect to their qualifications; what is your opinion of the system now in force with regard to the administration of justice by the native judges, as it was remodelled by Lord William Bentinck?—The system was remodelled and carried to a degree of perfection by Lord William Bentinck about the year 1829 or 1830, but previously to that, the Government had established a grade of sudder ameens for the cognizance of suits of greater amount than those which had been previously entrusted to the moonsiffs. Lord William Bentinck remodelled the system and established three different grades, the principal sudder ameen, the sudder ameen, and the moonsiff; gradually, that is, within the course of about five or six years from that time, the original cognizance of all suits was entrusted to those native judges, so that the covenanted civil judge of the district had scarcely anything to do, except to hear appeals from their decisions; I think that the change has been exceedingly popular; Lord William Bentinck's name, in consequence of the employment which he thus afforded to the natives, is held in the highest reverence by all classes of the natives, more so, indeed, than that of any Governor-general we have ever had in the country, and I think the administration of justice in their hands has generally given satisfaction.

3533. The grades of native judges are those which have been already stated; are there any changes with respect to them which you would suggest from your experience?—I know of none in particular with regard to the native judges; they are obliged to follow the rule of procedure laid down for the civil judge of the district, therefore any change that was made in the law of procedure for his court would immediately be applicable to the courts of the native judges. I think the pay of the native judges is susceptible of increase; the pay of the lowest class, who have cognizance of more than 100,000 suits in the course of the year, is very inadequate; they have 100 rupees a month to begin with, and then 150 rupees. I think the Government has been exceedingly anxious to improve the character and the qualifications of the whole of this service; it obliges every moonsiff to pass a most rigid examination as to his knowledge of the law, and the practice of the courts, before he is admitted upon the roll of moonsiffs; and subsequently, the Government always selects its officers for the higher grades of sudder ameen, and principal sudder ameen, from those who appear to be the most meritorious among the lower grades; this has a very great tendency to improve the character of the whole of the native judicial bench.

3534. The pay of the sudder ameens and of the principal sudder ameens is higher in proportion than the pay of the moonsiffs, is not it?—The pay of the sudder ameen is 250 rupees a month; that of the principal sudder ameen is 400 rupees to begin with, and a certain number of them receive 600 rupees a month, which is the utmost limit they can attain; and though they are at liberty to receive and decide suits to an unlimited amount, so that the aggregate value of the suits before the principal sudder ameens, I think, in the last year amounted to several millions sterling, they only receive the small sum of 600 rupees a month, while a civil and sessions judge, who formerly had the same description of suits to decide, receives more than four times that amount.

3535. You think that the pay of the sudder ameen and the principal sudder ameen is likewise insufficient, as well as the pay of the moonsiff?—I think it is, but more particularly the pay of the moonsiff, because the moonsiffs have to decide so large a number of suits, and it is necessary, I think, to place them in a position of greater independence, as it regards their allowances, than they now enjoy. They are held in very great estimation, generally, by their own countrymen, and their decisions have given considerable satisfaction; I have seen many decisions of the moonsiffs that would not do discredit to any judge of the sudder; and I know that many of them pride themselves upon exhibiting a thorough knowledge of the law and great legal acuteness in all their decisions.

3536. Do you think that the examination which the moonsiffs at present undergo is sufficient, or would it be desirable to establish some legal college, and render it compulsory upon a candidate for the office of moonsiff to pass through that legal college?—I do not think that the establishment of any law college would improve their qualifications; the Government have gradually raised the scale of qualifications, and I believe it is the intention of the Government to continue to raise it as much as possible; the office, I think, is held in such estimation that they educate themselves quite enough for the situation to which they are raised.

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3537. Is their position in society respected?—It is very much respected among the natives; the principal sudder ameen in a district, although a native, is always held by the community at large, both rich and poor, in the highest estimation. This post is considered the most honourable a man can attain to.

3538. A previous witness has mentioned that he thought it would be desirable that vakeels should be appointed to the higher grades of judicial situations; do you think that that would be desirable?—I think it would be an advantage if we could gradually remodel the system, so that every man before he is appointed a moonsiff should have had some practice as a vakeel in the courts. There is always this disadvantage connected with the present system, that a man is appointed a moonsiff who has nothing but a theoretical knowledge of the law and practice of the court, whereas in this country a man is always employed for many years as a barrister before he is raised to the bench. But the vakeels are, generally speaking, men of so inferior a character, that the Government have not been able, as yet, to introduce that improvement. Arrangements have been made for subjecting the vakeels to a strict examination before they are allowed to practise in the courts; and it is very probable that the Government will hereafter be enabled to ordain, that every man before he is raised to the post of a moonsiff, shall have had several years' practice as a vakeel in the courts. The rule now established in Bengal is, that no man is promoted to the office of principal sudder ameen, who has not filled honourably, and for a sufficient length of time, the office of sudder ameen; and no man is appointed a sudder ameen except from the inferior grade of moonsiffs. It cannot, therefore, be the intention of the Government that vakeels should suddenly, without passing through those grades, jump into the highest judicial office open to the natives, that of principal sudder ameen.

3539. Do you think it desirable to leave those improvements to the discretion of the Government, or would you by some enactment compel the Government to carry them into effect?—I think they may be very safely left with the Government of the country. For the last 12 or 15 years it has been an object of the greatest anxiety with the Government to improve the whole body of the native judicial servants, so as to increase the confidence of the natives of the country in their decisions; and I know that the subject is still under consideration, and that there is a determination to make the examination more strict than it ever has been, inasmuch as under the old system of examination, so many individuals were declared to be qualified as moonsiff, that it was, perhaps, four or five years before an individual could be appointed to the office, on the occurrence of a vacancy. The Government, therefore, are fully alive, as far as I have had an opportunity of seeing the working of the system, to the importance and the necessity of improving those native courts, and I think it may very safely be left to its own sense of duty, more especially if the great desideratum, namely, the appointment of a separate Governor of Bengal, is provided for by Act of Parliament.

3540. It has been stated to the Committee that a vakeel in good practice would not accept the situation of moonsiff; do the Government appoint vakeels to be sudder ameens at once, without passing through the lower grade?—They may have done so some years ago, but I do not think a single individual has recently been appointed to the situation of sudder ameen who has not passed through the previous grade of moonsiff. As regards the emoluments of the vakeels, many of those in the Sudder Court of Calcutta receive such large fees that it would not be worth their while to accept the office of civil and session judge; I believe some of them make from 3,000 to 4,000 rupees a month; a vakeel in good practice in the Sudder Court may always calculate upon an income of 500 or 600 rupees a month, which is fully equivalent to the salary of principal sudder ameen, with the additional prospect of its constantly increasing.

3541. Do the decisions of the native judges inspire perfect confidence as regards their independence, their integrity, and the uprightness of their motives?—I think, generally speaking, they do; in the native community every native has a mistrust of every other native; they never manifest the least confidence in each other, and the native judge is placed in a very invidious position; there are always persons enough ready to bring charges against him; but, generally speaking, I think the native judges have acted with a degree of most commendable

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commendable independence of the great men around them, and there are exceedingly few cases of their being chargeable with anything like venality.

3542. Would you continue to render some appeal to a European covenanted judge necessary, and maintain the supervision of such a judge, or would you make the decisions of the native judges final?—I think it is indispensable that there should be some appeal to a European judge; for, though the civil judge, when he first comes to the post, is not sufficiently acquainted with the law and the practice of the courts, yet he has a degree of English independence of feeling and a force of character which is very requisite in a district; if there were no such appeal to a European judge, and if the supervision of the whole administration of justice in a district were left even to the very ablest native, I think you would immediately lower the tone and general character of the civil administration through the country; you seem to require some one European mind in every district who shall have a general control over the civil administration, and this is the strongest objection that we have felt in India to raising a native judge to the office of civil judge, and giving him the entire management of the civil business of the district.

3543. In the practice of the courts, would you recommend any change in the language which is now used?—I am very much averse to anything like a change from the system which has been recently established. When the British Government first took possession of the country, or rather entered upon the administration of it, Persian was the universal official language throughout Bengal. It was introduced by the Mahomedans, because it was, in fact, their own language: this continued for a period of more than 70 years. At length, about the year 1834 or 1835, the Government abolished the use of Persian throughout all the courts, and, after 600 years, restored to the natives the use of their own vernacular language in the administration of their own affairs; the Hindostanee language or Oordu in the North-Western Provinces, and Bengalee in the province of Bengal, which comprises a population of from 25 to 30 millions of people. This change has been extremely popular among the natives, and has conduced more than anything else to the improvement of the administration of justice. I think, moreover, from what I know of the native feeling upon the subject, that any attempt to deprive the natives of the use of their own vernacular language, in the management of their own affairs, in the civil or criminal or fiscal courts, would create so immense an outcry throughout the country, that no wise Government would like to encounter it. The natives consider, universally, that the purity of the administration of justice, on the part of an European, depends, in a great measure, upon his knowledge of their own vernacular language; and when a magistrate comes to a district the very first inquiry made throughout the court, among the ministerial officers and in the community is, whether he is quite familiar with their language: so much so indeed that, although Hindostanee is generally spoken by almost all the officers of the courts, yet the natives themselves always distinguish between a magistrate in Bengal who can speak only Hindostanee, and one who is able to speak their own vernacular language. And the magistrates themselves are so fully aware of this fact, that I have known many instances in which a magistrate, who was thoroughly master of Bengalee, has inflicted a fine upon every man who ventured to address him in Hindostanee, because it had a natural tendency to mystify everything which was going on in court and prevented those around from really understanding the proceedings. I should also mention that I do not think you have a sufficient number of native judicial officers in the country acquainted with English to carry on the business of the courts in that language. There are many districts in Bengal, I might say there are at least half a dozen, where you will not find 20 natives able to understand English, and although a knowledge of English has spread very much within the last 20 years, under the efforts which have been made by the Government and by the missionaries in the establishment of schools and colleges, still it is a foreign language to the general body of the people. It has taken, and it occupies precisely the position which Persian formerly did. It is the language of the rulers of the country, and a man acquires a degree of dignity in his own eyes, and in the opinion of the community around him, if he is enabled to address them in their own language. I think, in this country, you would find five times as many well educated men thoroughly acquainted with French, as you would find natives who are well acquainted with English in Bengal. The Committee can easily judge, by

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by parity of reasoning, how unpalatable it would be to impose the use of Norman French in the courts of this country. I made particular inquiries before I left the country, of those who have the superintendence of our educational institutions in and about Calcutta, and they assured me that they did not believe there could be found at this time, after 25 years of English education, and though there are 10,000 young men at the present time studying English in and about Calcutta, 500 men, scarcely even 300, who had such a knowledge of English as to be able to form a clear decision upon a case, from the address of the counsel, and the evidence of the witnesses, and the charge of the judge, given in English. You have not, therefore, at present, the materials for introducing English as the language of the courts. It would, in fact, be going bake to such a degree, that it may be said to be almost impossible; it is almost as impossible as you would feel it to be in this country to abolish railways and revert to the old system of stage and mail coaches.

3544. Your opinion would not be favourable to appointing as judges in the Company's courts, barristers practising in England, without a previous residence in India?—No; I do not think it would be at all popular with the people, or that it would in any measure conduce to the ends of justice. Those who have been trained to the bar in this country are rather too fond of the technicalities of the English law, and our business in India now is to retrace our steps, and render the law as simple as possible. A barrister going from this country must be a stranger to the habits, to the language, and to the feelings and prejudices of the people. A knowledge of the people must, in a great measure, enter into the administration of justice: at present, whatever may be the deficiencies of the Company's civil judges when they are first placed upon the bench, they still come to that post after they have been living and acting among the people for 20 years; but if you appoint a barrister fresh from England, he must come among the people as a perfect stranger, and I cannot think such an appointment would at all conduce to inspire confidence in the natives, or improve the administration of justice.

3545. You said just now that the object was to retrace our steps, as regards the judicial system; will you explain what you mean by that expression?—To get rid of as much of the technicalities of our system of law as possible, and to reduce it to a state of greater simplicity; as I mentioned in my evidence the day before, our object should be to assimilate it as nearly as possible to the system which now prevails in the county courts in England, and to the system which we have established in Calcutta, in the small cause courts, and in our non-regulation provinces, more especially in the Punjaub. In the Punjaub, although it has been in our possession only about three or four years, the Board have been enabled to establish a system of civil law, the rules of which are comprised in about 15 foolscap pages, which gives universal satisfaction to the people; and amongst the most essential of those regulations is the exclusion of all vakeels, except when the judge thinks them to be necessary.

3546. Mr. *Hume.*] What regulations are those to which you refer?—They are the rules which have been drawn by the Board of Administration, in the Punjaub, for the administration of civil justice.

3547. *Chairman.*] You have given the Committee your opinion as to the independence of the native judges; what is your opinion of the independence of the European covenanted judges?—I think from all I could learn in the country, that their independence of the Government is perfectly exemplary. Every man is at liberty at any time to institute a suit against the Government; in fact there are always hundreds of such suits, and perhaps even a greater number, upon the board. No man is deterred from instituting a suit against the Government, against a collector, or against any of the Government officers, from the apprehension that the judge, in consequence of being a servant of the Government, will decide in its favour.

3548. When a suit is brought against any collector or official servant of the Company, are these suits tried by courts perfectly competent to form a just opinion, and independent in their judgment?—Suits brought against a collector in his official capacity are tried by the regular civil courts. The collector is there treated as the representative of the Government, and it is a suit against the Government, and is brought according to the regulations in the courts of the country; but the Government have appointed an officer called the superintendent

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of such suits, and the legal remembrancer to whom every such suit is referred, and it is his business to examine whether there is any ground for the Government defending the suit. If he finds that there is no sufficient ground for it, and that the Government is likely to be cast, he recommends to the superior authorities to compromise the matter, or to settle it with the plaintiff. But I think, in all such cases the people of the country have the fullest confidence that the civil judge will act perfectly independent of the Government. I should mention that in some of the petitions, which may possibly have been sent home to this country, assertions have been made that the civil judges, dependent as they are upon the Government for their promotion, are necessarily partial in their decisions, but the parties have not been able to adduce any case which clearly supported such an assertion. They have cited, perhaps, one or two instances in the last 25 years, but the most important case upon which they rely is, that which can scarcely be considered as bearing at all upon it; it was the determination of Mr. Courtenay Smith, one of the judges of the Sudder, just before the last charter; when a promissory note of the Government was presented as a deposit, he refused to receive it; he said it was a mere promissory note of a chartered body, whose privileges would expire in two or three years, and it could not be considered of any real value. The Government found that this decision struck at the root of all public credit, and I think they visited Mr. Smith with their displeasure.

3549. Have these suits against the Government been instituted in the courts of the principal sudder ameens as well as in the courts in which the covenanted judges preside?—I think they would be instituted also in the courts of the native judges.

3550. Supposing an action is brought against a native judge, for misbehaviour of some kind, is that action tried before judges who are quite competent to understand the case, and to give a fair decision?—There have been very few instances of the kind; I believe that in all such cases the Government would institute a particular inquiry whether there is any ground for such a proceeding. I do not at this moment recollect any case of the kind, which would enable me to give the Committee an answer as to the practice of the Government in that respect.

3551. Mr. *Elliot.*] In any case in which the Government is either plaintiff or defendant, does the Government stand in any position whatever which is more favourable to itself than an individual would stand in, if he happened to be plaintiff or defendant?—Not in the smallest degree; on the contrary, the legal remembrancer used to observe that nothing was more difficult than to get a decision in favour of the Government, and that if there was any leaning whatever on the part of the covenanted judges, it was invariably rather against the Government than in its favour.

3552. Mr. *Hume.*] Does the Government pay costs in the same way as individuals do in all cases?—Costs are paid by the Government.

3553. *Chairman.*] What is the general opinion with regard to appeals from the civil courts in India to the Privy Council?—I think there has often been some dissatisfaction felt in India by the natives, as well as by Europeans, that they should be under the necessity of appealing cases to such a distance. They have sometimes expressed a wish that some tribunal should be constructed upon the spot, to which those appeals which are now sent to the Privy Council might be referred; but I do not think there are any elements for the construction of such a tribunal. The only body to whom you could refer it would be the Executive or the Legislative Council. But it would be manifestly improper for those who are charged with the duty of legislation to interfere in the administration of justice, and as it regards the Executive Council, they have no time for it. Formerly, that is, for 20 or 30 years after we took possession of the country, the Governor-general, and the Members of the Council, constituted the Sudder Court, and heard appeals; but Lord Wellesley, about 1802, found it utterly incompatible with his official duties, and placed the Sudder Court upon its present footing. There is therefore no body of men in India to whom you could refer those cases, and I think it would be disadvantageous to break the link which now connects the natives of India with this country, through the medium of appeals.

3554. What is the value of the cases in which the right of appeal can be exercised?—Formerly the value was placed at 5,000 *l.* sterling, but it was subsequently

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quently reduced to 1,000*l*. About 16 years ago an Act of Parliament was passed directing the Court of Directors to carry on such suits at the public expense, when parties neglected to pursue them, and to look for reimbursement to the parties after the case was decided; there was a very strong, and I think a just objection raised to this in India, and it was considered that the public revenues ought not to be burdened with the expenses of private individuals. After about 130,000*l*. sterling had thus been sacrificed, the Act was repealed, and every man is now left to carry on his suit from his own resources.

3555. Do you recollect during what period that 130,000*l*. was spent?—I think it must have been during a period of 12 or 13 years.

3556. Have you any suggestion to make regarding those appeals?—I would suggest that as you always have one of the judges of the Crown courts of India, sitting as assessor in the Judicial Committee of the Privy Council, and as fully one half and perhaps more than half the cases of appeal come from the Company's courts, and are connected with questions of Hindoo law, habits, manners and usages, it would be a very great advantage to have also one of the most eminent of the retired judges of the Company's Sudder Courts as assessor with the Privy Council, who should occupy the same position which the judge of the Crown Court now occupies. Some of the decisions that have lately been passed by the Privy Council have appeared in India to be rather anomalous; this anomaly has generally been attributed to the absence of any one individual in that tribunal thoroughly acquainted with the law and practice of India, and the habits and feelings of the people.

3557. What is the present state of the police in Bengal?—The state of the police in Bengal is unfortunately very unsatisfactory; it is perhaps the worst part of our admininistration; there is very little security to property, and those who commit depredations are very seldom apprehended and punished.

3558. It contrasts unfavourably with the police in the Punjaub?—Yes, exceedingly so; the police in the North-Western Provinces is, on the contrary, admirable; it is considered almost the best part of Mr. Thomason's administration, and in the Punjaub, though it has been for so short a time in our possession, the police has been placed upon the most satisfactory footing, and although there are from 30,000 to 40,000 disbanded soldiers abroad in the Punjaub, there has not been a single decoity committed in it for 12 or 15 months past.

3559. Is the police in the Punjaub a military police?—It is not altogether a military police, though I believe there is a military police in the country; I think the Government depends on the civil police; but it is not attributable to the existence of this military police, which has rather military duties to perform in a country recently conquered, than the duties of a criminal police.

3560. Mr. *Ellice*.] Does not the difficulty of the police in the Lower Provinces arise more from the character of the people; must it not be more easy to establish a good police in the North-Western Provinces than in the Lower Provinces?—I think the inefficiency of the police in Bengal arises to a considerable degree from the character of the people; they never can be roused to protect themselves; they submit to the exactions and to the oppressions of decoits and of public officers almost without a complaint. I may mention, that having been very recently in communication with some of the magistrates in the North-Western Provinces, and having explained to them the inefficiency of the police and the exactions of the police officers in the Lower Provinces, and inquired of them how it happened that nothing of the kind was exhibited in the North-West, they said it arose in a great measure from the superior spirit of independence of the people, and that if a darogah or a tehsildar were to make of any body of men the same demand in the North-Western Provinces which were made every day in Bengal, he would have his head broken immediately.

3561. *Chairman*.] Is not the inefficiency of the police in Bengal Proper in some measure to be attributed to the youth of the magistrates?—About 16 or 18 years ago the offices of collector and magistrate in Bengal were separated, and from that time the magistrates have, generally, been men of great youth and inexperience; we frequently find a magistrate entrusted with the administration of a district containing a million of people, when he is only 25 or 26 years old, and although in many cases the magistrates have acted with a great deal of prudence, and judgment, and energy, yet their extreme youth does to

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a considerable degree impair the confidence of the people in the operations of the police, and it rather impairs its efficiency.

3562. Are decoities very frequent in Bengal?—Very much so; more especially in the districts immediately round the Presidency; there used not to be, and perhaps at the present time there is scarcely a night in which there are not two, three, or four decoities perpetrated, and they are almost always committed with impunity. Two or three years ago the magistrates, in five or six of the districts around Calcutta, were obliged to confess that no man possessed of property to the value of 20 *l.* or 30 *l.* could retire to rest with a certainty of not being plundered of it by the decoits before the morning. There is, therefore, a very great insecurity of property, and property is felt to be exceedingly insecure by the natives themselves in the districts around Calcutta.

3563. What distance from Calcutta would your observation comprise?—It would comprise a circle, say of 70 miles round Calcutta.

3564. By whom are the decoities committed?—They are committed by organized bands, under the direction of very able, experienced, and unscrupulous leaders. There are, perhaps, at the present time, or there were till lately, 20 or 30 of such sirdar decoits in Bengal, who had a large number of people under them, whose services they could always command upon every occasion. They had their scouts out in every direction, seeking out some man of wealth, or who was in possession of some property, whom they could plunder with impunity. As soon as information was given to the leader, he sent word to his own gang to assemble with their weapons at a certain rendezvous. They came from different parts perfectly unobserved, and when they had arrived, having previously received a full account of the premises, the plan of the expedition for the night was explained to them; each man had his own part assigned to him in it, and then they set out and fell upon the house, and generally plundered it of everything.

3565. Mr. *Hume.*] Where do you obtain the information which you have given to the Committee on this subject?—From what passed continually under my own eye, in and around Calcutta and Serampore.

3566. *Chairman.*] How long has this state of things existed?—Decoity is the normal crime of Bengal, especially of the Lower Provinces.

3567. Do you mean that it has always existed in the country?—As far as we have any knowledge, it has always existed.

3568. Has it increased of late years?—It fluctuates with the vigorous efforts of the Government to put it down.

3569. Mr. *Mangles.*] Was not it much worse 40 years ago, in the time of Mr. Elliot?—About 40 years ago the system had reached such a state of perfection that the Government were obliged to employ Mr. Elliot and the well known Dr. Leyden, to go into the disturbed districts, and the most stringent measures were adopted, and the district of Kishnaghur, in particular, was almost cleared from decoits, but the crime has now revived again.

3570. Was not there as great an outcry then raised against the too great vigour of the Government as now against their supineness?—We had no free press then, and I cannot say. With regard to decoity, I have said that it is the normal crime of Bengal; it was always the great difficulty of the Mahomedan Government, and it has been our great difficulty too. The Mahomedan Government employed the most stringent, and almost unconstitutional means for the repression of decoity. We have a clear account of the mode in which the Mahomedan Government proceeded, in a minute of Warren Hastings in 1774, when decoity had become very rife in Bengal, and when he recommended, in order to put it down, that every decoit who was seized should be hung up in his own native village, and that the whole of his family should be sold as slaves.

3571. Have you that minute with you?—I have made an extract from the minute of Warren Hastings, which describes the mode which the Mahomedan Government adopted to put down these decoits; he says, "The chiefs of these banditti are generally as well known to be such as if they were invested with a legal and public authority for the command which they exercise, yet it would be scarcely possible to prove any direct fact against them, on which they could be condemned; and I have heard the names of some who have been taken up and examined on the notoriety of their character, but have been acquitted and released for want of evidence against them. With such offenders, the authorized

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rized practice of the former Government has ever been to ascertain the identity of the men, and so condemn them without waiting for further process to establish any specific charge against them. I know to what I expose myself by recommending a practice so repugnant to the equity and tenderness of our own constitution; but from a principle superior to every consideration which may affect myself, I venture to declare, that unless this Government adopts the same summary mode of proceeding in such cases as I have described, I see no probability of freeing this country from the worst species of oppression, or restoring it to security and order. A rigid observance of the letter of the law is a blessing in a well-regulated state: but in a government loose as that of Bengal is, and must be for some years to come, an extraordinary and exemplary coercion must be employed to vindicate those evils which the law cannot reach."

3572. Is there any law now in force specially applicable to the suppression of decoities?—I should state that the recommendation of Warren Hastings at the time was not adopted by his Council, which then consisted of Mr. Francis and his bitterest enemies; subsequently, when the Government became aware of the extensive ramification of the Thuggee association, and of the injury which it was inflicting upon the country, it was found necessary to enact a law precisely of that nature for the suppression of this crime, so that any man who was convicted of having belonged to a gang of Thugs might be condemned upon the evidence of that circumstance, and transported.

3573. Mr. *Labouchere*.] When was that law enacted?—I think 15 or 16 years ago, just at the time when Colonel Sleeman's operations against the Thugs began.

3574. Was that law confined to any particular district of the country, or was it a general law?—It was a general law, because they seized Thugs throughout the whole of India; they were very often pursued down to Hydrabad, 1,000 miles from the seat of the Bengal Goverment, it was therefore a general law, applicable to the whole of India, but applicable to the case exclusively of Thugs.

3575. Has that law been effective for the purposes for which it was enacted?—Completely so.

3576. Is it in force now?—It is still in force; the Government have succeeded in almost entirely eradicating the crime of Thuggee. About nine years ago, some of the officers in the North-western Provinces, who had to deal with professional decoits, especially those on the borders of Oude, requested the Government to enact the same law for the suppression of those decoits; that is, of the decoits who belonged to certain tribes of professional plunderers; this law was passed chiefly in reference to the North-western Provinces, and to those provinces which bordered upon Oude. As decoities increased in Bengal, it was suggested that this law might be made applicable also for the suppression of decoities in the Lower Provinces, and for the punishment of the decoits; but the Sudder Court, at least several of its judges, held, that as the decoits of Bengal did not belong to the particular tribes to which this Act evidently had allusion, it could not be made applicable to Bengal. But in October last the case was brought formally before a full Sudder Bench; it was argued for a whole day, and the majority of the Sudder judges then decided that the decoits of Lower Bengal could be convicted under this Act, and that the courts would be authorised, if it was proved that the decoit had belonged to a gang, to condemn him immediately to transportation.

3577. *Chairman*.] Without any proof that he had himself committed the act of decoity?—Without that proof.

3578. Has that been acted on?—Yes.

3579. Viscount *Jocelyn*.] Has not the system of approvers been one means by which the Government has carried out its measures against the Thugs?—Almost entirely through the medium of approvers.

3580. Has that system been tried with the decoits?—It had only begun to be tried when I left the country.

3581. Do you imagine that it will have the same effect as it had in the case of the Thugs?—I think it will; but I should mention that the depredations of the decoits became so formidable, and property became so utterly insecure in the districts around Calcutta,—in some cases the decoits actually came in bodies of 40 and 50 with their torches, and entered into a house, plundered it of everything, and then moved off in triumph—that the Government last year

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found it necessary to adopt additional measures for the suppression of decoity, and they therefore appointed an officer for this exclusive duty; he was styled the Commissioner for the suppression of decoity. They made selection of Mr. Wauchope, a magistrate, and one of the most able and energetic officers in the Lower Provinces, and a man perhaps more thoroughly acquainted with the habits and character of the people and the state of crime than almost any other. Mr. Wauchope was appointed, I think, in April or May last; he immediately set to work, and obtained a large mass of information regarding the plans and the practices of those decoits; he persuaded some of them to turn approvers; some even of the leaders of the decoits turned approvers, and confessed to having been engaged in no less than 30 decoities, in not one of which had they ever been detected or seized by the police. Mr. Wauchope's energetic measures threw the whole of the decoity community throughout Bengal into such a state of dismay, that his exertions in the course of two or three months almost restored peace and tranquillity to that part of the country. In some of the districts round Calcutta, where there had not been a single night without two or three decoities, a whole month passed over without one; and there is every reason to believe that his exertions, or, as he is coming home to this country in ill-health, those of the gentleman who will succeed him, with the aid of this interpretation which the Sudder Court has put upon the law, will enable the Government entirely to eradicate the crime. In fact, as soon as it was known that the Government had determined to take the field against these organised bands, in earnest, and to punish them, the crime immediately began to diminish.

3582. Mr. *Elliot*.] You referred in the beginning of your evidence on this subject to the youth of the magistrates, as one cause for the continuance of the crime of decoity to the extent to which it now exists?—I do not think I referred to the extent of the crime of decoity as having been caused by that, but I said that the youth of the magistrates, who are called "boy magistrates" by the natives, from there being many of them under 25 years old, certainly was one cause of the inefficiency of the police in the Lower Provinces, and that the natives have not the same confidence in them that they would have in men of greater experience.

3583. About 40 years ago the offices of judge and of magistrate were united in the same person?—Yes.

3584. They were then old servants, but did not similar irregularities take place then to those which take place now?—I think the crime of decoity has increased, within the last six or seven years, to an extent that is almost unparalleled and perfectly insupportable. One magistrate, whom I have now in my mind, was on a tour in the last cold weather when there were no fewer than six decoities committed within three miles of his encampment, in the course of a single week. I do not think decoities have increased in consequence of the youth of the magistrates, but I think, generally, the administration of criminal justice has not been improved, but has rather deteriorated, through their youth and inexperience. There are also some other causes, which I might mention, which have conduced to that state of things.

3585. Mr. *Mangles*.] The decoits are not so ferocious as they were, are they?—No; they almost always abstain now from putting any one to death, or inflicting anything like torture.

3586. Formerly they were commonly attended with death and with torture, were not they?—Yes, they were; one decoit, who confessed to 35 crimes, said that in only two or three cases had he resorted to torture, and those were cases in which the parties refused to discover their wealth.

3587. *Chairman*.] Should you think it desirable for the purposes of police to reunite the offices of collector and magistrate?—I think the voice of the country universally calls for the reunion of the two offices. In the North-western Provinces, the office of collector and magistrate is united; it is so also at Bombay, and I think at Madras. The union of these two offices is generally believed by the people in Bengal, both natives and Europeans, to be one of the measures which would conduce to great improvement in the police of the country and the administration of justice. The collector is brought in contact with all classes of people. As the collector of the Government rent, he is in intercourse with all the zemindars of his own district; he has the cognizance of all summary suits regarding exactions of rent; he decides all the complaints of the agricultural

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tural community. He is, therefore, fully acquainted with all classes of natives in his own district. It appears natural, therefore, that he should be intrusted with the charge of the police. In that case, you would have the present magistrates as his assistants, and in the collector you would have an older and more experienced man; and I think, generally, throughout the country, the natives would have more confidence in the administration of criminal justice, and it would be abundantly improved. In that case, many of those appeals which are now made from the magistrate to the civil and sessions judge might be altogether dispensed with, for those appeals are a source of very great inconvenience, and in some measure tend to keep the police in the state in which it is.

3588. Mr. *Hume.*] Are the Committee to understand that you would recommend that in Bengal the same system should be re-established as is now established in the North-western Provinces?—Precisely the same; the union of the office of magistrate and collector.

3589. *Chairman.*] Are there any other observations which you would wish to make respecting the inefficiency of the police?—I think the constant appeals from the magistrate to the sessions judge is a cause of very considerable mischief; almost every order that the magistrate passes is open to an appeal to the sessions judge, and, unfortunately, when the sessions judge and the magistrate happen to be at variance with each other every order is regularly appealed; the man goes round the corner, and submits an appeal to the sessions judge, against the order which the magistrate has just passed, and, in most cases, the order is reversed. The natives are very sharp to detect this discord between the two powers, and they always endeavour, if possible, to widen it, and to turn it to their own advantage. On the other hand, where the judge and the magistrate happen to be on the very best terms, the appeal is almost a farce; but in both cases the interests of the country suffer. I think, therefore, that if you were to appoint a collector, who is an older and more experienced man, as magistrate to a district, and dispense with a number of those appeals, the administration of criminal justice would be very much improved.

3590. Are the public establishments equal to cope with crime?—No; I think another cause of the inefficiency of our police, and of the deplorable state of the country, is the inadequacy of our public establishments to cope with crime. You have in Bengal, among a population of between 25,000,000 and 30,000,000 of people, one superintendent of police and 35 or 36 magistrates, and about 400 darogahs of police, with a regular constabulary force of about 10,000 men; I am not certain of the number, but I think they amount to only 10,000 men. This is the whole of the regular police of the country, and I do not think the establishment is equal to the repression or the detection of crime. There is another body, a large force, consisting of the village chowkeydars, who are totally dissociated from the general police of the country; this is acknowledged by all the officers of Government to be one of the great causes of their inability to deal with crime effectively.

3591. What is the number and position of the body of the men you have last spoken of?—The number of village chowkeydars throughout Bengal and Bahar is reckoned to be from 160,000 to 180,000; those men are always very inadequately paid; I do not suppose that one-half of them receive more than 3 *s.* a month, and this sum is paid to them without any kind of punctuality: the consequence is, that they are obliged to eke out their allowances by conniving at crime.

3592. By whom are they paid?—It is very difficult to say by whom they are paid, because that is altogether an undefined question; in some instances they are paid by a village cess, in other cases by the zemindar or landholder; there are scarcely any two villages in which the same rule prevails; they are not only inadequately paid, but even the appointment of chowkeydar is very uncertain. Nothing can be more loose than the whole system: in some cases the villagers themselves appoint the chowkeydars, in other cases the zemindars appoint them. On a recent occasion the question was brought before the Government, particularly by one zemindar, a very able man, residing within five or six miles of Calcutta; he was ordered by the magistrate to fill up those vacancies, which he refused to do, and was fined; he refused to pay the fine. The question was thus brought under the cognizance of the Government, when it was found that

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that there was absolutely no law which could compel the zemindar, or the villagers, to fill up the office, when it became vacant.

3593. Mr. *Mangles.*] You said that, for the last 12 or 15 years, it had been a great object with the Government to improve the judicial administration; was not that equally the object of Lord William Bentinck, Sir Charles Metcalfe, and Lord Auckland?—Lord Auckland's Government is within that period: Lord William Bentinck, in 1829 and 1830, introduced the present system of native judicial officers; he bequeathed it to his successor, Lord Auckland. During the period of Lord Auckland's Government, and, in fact, from the time that Lord William Bentinck established it, there has been a constant effort on the part of the Government to improve it. I more particularly alluded to the last 15 years, as being the date within which higher powers were given to the principal sudder ameens.

3594. Sir *T. H. Maddock.*] The salary of the principal sudder ameen being 600 rupees a month, and that of the sessions judge being 2,500 rupees, in what proportion do you think they would be properly paid rather than by the present proportion?—I think there must be always a distinction kept up between the pay of the natives in the country and that of the covenanted civil servants; I cannot exactly fix upon any specific sum, but I think the disproportion of 600 rupees to 2,500 rupees is too great; we have always thought the salary of the principal sudder ameens might be raised up to 900 rupees a month, or, if possible, eventually to 1,000 rupees.

Charles Marriott Caldecott, Esq., called in; and Examined.

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3595. *Chairman.*] WILL you state to the Committee the period during which you were in India, and what situations you filled there?—I left Haileybury in June 1826; I passed the college at Calcutta in February 1827; I began work as assistant to the magistrate of Allahabad in June 1827; was made acting register of the civil court in October 1827; was made acting magistrate of Allahabad in March 1829; added on Settlement duties at the end of 1829; remained there to the 10th of June 1833, when Lord William Bentinck sent me to Cawnpore as magistrate; in 1835, Mr. Blount made me collector and magistrate at Saharunpore, but retained my services at Cawnpore; I returned home on furlough at the end of 1836; I went out again at the end of 1841, and was immediately sent back to Cawnpore by Mr. Robertson; in the beginning of 1843, Lord Ellenborough sent me down to the Saugor and Nerbudda territories to re-organize the civil and criminal judicial courts there: I came home at the end of 1845 in consequence of ill health, and resigned the service.

3596. The information which you can give the Committee will be with respect to the administration of justice in the Non-regulation Provinces?—I can give some information as to the Regulation Provinces as well. The Saugor and Nerbudda territories were regulation as regarded criminal matters, and non-regulation as regarded civil matters. I was called civil and sessions judge there.

3597. Will you describe what system you administered there, and what opinion you entertain respecting it?—In criminal matters we were subject to the regulations; but owing to its being a very extensive country, there being seven districts there, it was impossible to hold the usual monthly sessions of the Sessions judge, and cases up to seven years' imprisonment might be decided by me upon the report of the magistrates of the different districts. I also had some extra powers respecting reducing or increasing the punishment without reference to the Sudder Court at Agra. There were seven district officers who had the power of magistrates, and they sent their cases up to me. I supervised those districts as an ordinary sessions judge of the Regulation Provinces. I went my circuit at the end of the year. There were 710 miles to march, and I could not march above 10 miles a day, in consequence of the badness of the roads. The circuit lasted four months.

3598. What was the system pursued in civil matters?—I may, perhaps, first state what system I found existing there. When I went there, I was called civil judge, but I was at the head of the civil department, not subject to any regulations, but only to the Governor-general himself. I found 25 pergunnah courts existing there. Those courts were at the stations of the three principal grades

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grades of revenue officers, the tehsildar, the sub-tehsildar, and the zillahdar. They were composed of one revenue officer, of whichever of those grades he might be, and four assessors. He was the official president, and he had four assessors, whom the parties had to choose from a list of 12 given in by each party. They had cognizance of suits up to 400 rupees, of all descriptions, the limitation being 12 years. The president was remunerated by an institution fee of three per cent. upon the amount of the claim, which was paid to him at the time of filing the written plaint. The defendant was summoned upon that plaint, and if he confessed the plaint, there was a decree given at once, and no jury called. If he denied, the four assessors were called, and the case was gone into: but those courts could not execute their own decrees when they had made them; they were not allowed to execute them; they were executed, in the first instance, by the European officer of the district, who was called then the principal assistant. Those pergunnah courts were instituted by Mr. Smith in 1831. In 1836 it was found that those courts did not entirely answer; sometimes they were stopped from more urgent business going on, and the revenue president was too powerful for his assessors, who became his mere nominees. It was intended that they should be the neighbours of the parties, but the impossibility of bringing them from a distance led to a state of things in which they were generally selected from the immediate vicinity of the tehsildary. The decision was governed by the majority, the president having the casting vote; in practice it was found that almost all of them were decided unanimously, and as they had not the responsibility of enforcing their decrees, they were not very particular in their decisions. Mr. Shore, in 1836, to obviate the evil in some degree, added six sudder ameens, with a primary cognizance of suits to any amount, with only the condition, that in cases under 400 rupees, that is, cases similar to those which the pergunnah courts could hear, they should adopt the fee system of the pergunnah courts, but hold the proceedings in the form of their own courts, which were assimilated to those in the Regulation Provinces; they also might execute the decrees of the pergunnah courts. In 1843 I was sent down to remodel the civil courts. Most of the abuses or difficulties which had arisen had been pointed out by Mr. Robert Mertins Bird in his Minute, which he made upon travelling through the country as Revenue Commissioner, so that I had no great difficulty in finding out a remedy. I appointed, as natives having primary jurisdiction, eight moonsiffs of the second class, four moonsiffs of the first class, and three sudder ameens: these all had primary jurisdiction; these 15 judges with primary jurisdiction were committed to the charge of two judicial officers, who were called principal sudder ameens, and the country was formed into two divisions; these principal sudder ameens performed the duties which a civil judge does in the Provinces; they formed an appellate court from the native judges of primary jurisdiction, and there was a special appeal to me from the principal sudder ameens, I representing the last court of appeal.

3599. Did you find that system work well?—I found it work very well indeed, as I could prove by details of the results.

3600. The Committee wish to avoid entering into any specific details, but they desire to receive from you such suggestions as your experience may prompt with respect to any improvements which might be effected in the judicial system of India?—I would say, generally, that the well-educated Mahomedan of Central India is well calculated for any rank of civil judicial office, provided he is well supervised. It was the great beauty of Lord William Bentinck's system, that instead of having a court of appeal a long way off, he made a court of appeal in every zillah.

3601. Would you introduce a system of juries?—Juries were tried formerly in the pergunnah courts, and they were found not to answer. I think the native judge generally requires no jury; he has a perfect general understanding of the merits of the case, knowing as he does the manners and customs of the natives. If he had a jury he might be tempted to do something improper, because the responsibility would not be so directly upon himself, he would have a jury to cover his faults.

3602. With regard to the general administration of justice, is there any suggestion which you wish to make to the Committee?—I think it would be a great improvement if some mode of training were introduced, by which officers, who

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formerly obtained a certain amount of knowledge as registers, might obtain it now before they became civil judges of appeal.

3603. You would re-establish the office of register?—I would not establish it in the form in which it existed in those days. I think officers were appointed judges too soon then; but I think an officer, when he has attained the rank of joint magistrate and deputy collector, an officer, say, of seven years' standing, might be entrusted, supposing he were at a station where there was a judge, with original jurisdiction there to the same extent that the principal sudder ameen has now, though not with any appellate powers: he might be ordered to devote one or two days per week to civil judicial duties, besides his magisterial and collectorate duties; he has the same powers as a magistrate and collector.

3604. Mr. *Elliot*.] You would make him assistant to the judge as well as to the magistrate and collector?—Yes; I would make him a register with original jurisdiction, which I think would relieve the principal sudder ameen so much, that if it were thought expedient to have an associate with the judge in hearing appeals, the principal sudder ameen and the judge might sit together to hear appeals from the moonsiff and sudder ameens, giving the judge the casting vote if they differed, in that case leaving an appeal; but if the judge and the principal sudder ameen upon the appeal were unanimous, then that there should be no appeal from their decision; I think it is very essential that appeal should be left as open as possible.

3605. Does not the system of appeal involve too great delays in the administration of justice?—A second and final appeal, I believe, is only upon matters of law in the Regulation Provinces; it is not allowed on the merits.

3606. Would you make any change in that respect?—I would allow an appeal upon law and merits too, for this reason, that there is not the appeal which we have in England; there is not an appeal to the public. The best check against maladministration is, that there should be an appeal open to the parties. I think it is peculiarly necessary in India. I kept it open in the Saugor and Nerbudda territories, though it was very inconvenient, from the press of business it at first occasioned me. It is certainly a question whether the courts can get through their duties with an open appeal, but if they can do so, I have no hesitation in saying that the appeal ought to be as open as possible. If the judicial officers are efficient, that will very soon cease to be burdensome, for when people have ascertained that the decisions are upheld, debtors will be more careful in paying when they can, without submitting to a suit, and there would not be many litigious appeals.

3607. Is there any other change which occurs to you to suggest?—There is one change with regard to the civil judges in the Regulation Provinces. I believe that at present they are not allowed to pass any decision in a regular civil suit out of their own office at the station; I think that is objectionable; I think it would be much better if they were allowed, or ordered, to go out in the cold weather into the district to hold their court on the journey, and to visit the different moonsiffs and native judges at the places where they are at work. The civil judge would by that means obtain a much better knowledge of what was going on, and the moonsiff would be much more careful in his proceedings if he knew that the judge would be on the spot, and might inquire of his neighbours how he had been conducting himself during the past year.

3608. Mr. *Newdegate*.] From your experience you think that the natives, particularly Mahomedans, may be usefully employed in the decision of civil cases; how far do you think they may be employed in the administration of criminal justice?—My own experience of the natives with regard to criminal justice is, that they are very good judges of whether a fact is proved or not, but they have no discrimination whatever in adjusting punishment to the crime which may be proved. That is my experience, and it is an experience which has been confirmed by conversations I have had with others whose judgment I would trust. I never met with a native yet in Central India who understood the principle of apportioning punishment to crime.

3609. That failing on the part of the natives does not apply in civil cases?—Not in any way.

3610. If the Committee understand you rightly, you are in favour of extending the jurisdiction of the natives in civil matters, but not in criminal matters?—In criminal matters I think there might be particular instances in which

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petty cases should be made over to the natives; where, in consequence of the extraordinary distance from head-quarters, less injustice would arise from an occasional inappropriate sentence than from dragging people 150 miles to the district court.

3611. Is it your opinion that natives might usefully be associated with Europeans in the administration of justice?—I recommend that the principal sudder ameen should be associated with the civil judge for the purpose of hearing appeals from the primary native courts.

3612. As far as your experience of the police has gone, what is your opinion of that part of the administration of justice in India?—I think the great error in the system of police is, that the lower grades are so shamefully ill-paid; the pay of the higher grades has been raised, the darogahs, the jemadars, and the mohurrirs; but the burkandazes remain at four rupees a month; that is, half the pay which a common soldier in India gets. At that rate of pay no educated person would enter the service; and, therefore, you rarely find one fit to be promoted to the higher grades.

3613. Sir *R. H. Inglis.*] Is there reason to believe, that in consequence of the lowness of the pay, means are taken to enable the parties to live better, or to live at all, which the law and reason would not contemplate?—There is no doubt that where a person receives a pay which will not support him, he must raise the means of support in some other way, from his influence as a police officer.

3614. And those means are inconsistent with the due administration of justice?—The means taken by those common policemen are certainly inconsistent with the due administration of justice.

3615. The means which he must adopt, in order to make his income commensurate with his wants, are means inconsistent with the due discharge of his duties?—They are means which make him disreputable; they make him liable to punishment, and therefore damage his efficiency as a preventor or detector of crimes.

3616. Sir *T. H. Maddock.*] What is the ordinary rate of wages of labour in India, where four rupees is the payment to the burkandazes?—We paid three and four rupees a month for our labour.

3617. The pay of a burkandaze is always above the ordinary rate of wages of labour, is not it?—Yes, it is just above the ordinary rate of wages of labour.

3618. Is it not probable that many persons would prefer that rate of wages, with the advantage of residing in or near to their own homes, to a higher rate of wages for serving as soldiers, and being subject to discipline, and stationed almost always at a great distance from their homes?—There was an instance of it in the old provincial battalions; they were paid five rupees a month, and at Cawnpore there were better men to be found in the provincial battalion than in many of the regular regiments, because families preferred having one of their own number in the service at head-quarters of the district courts.

3619. You have spoken of the administration of criminal justice by the natives; what native officers employed under you exercised any criminal jurisdiction?—The sudder ameens.

3620. To what extent had they the power of punishing?—They had the power of an assistant magistrate, and they might have the extra powers of an assistant magistrate; they might inflict a month's imprisonment under the common powers, and six months' under the special powers.

3621. Mr. *Hardinge.*] With regard to the publicity of the judges' decisions in the North-Western Provinces, are the decisions of the judges published in pamphlets, which are circulated for public information?—I have not been in the North-Western Provinces for seven years; it was not the case when I was there.

3622. How many police battalions were there in the North-Western Provinces when you were there?—The old provincial battalions were in existence when I was there; they were abolished by Lord William Bentinck in 1831. In the Saugor and Nerbudda territories Lord Ellenborough established two battalions of military police, besides those established in Bundelcund by him.

3623. Are you in favour of increasing the military police battalions, or would you prefer the civil police?—I do not see that the duties are at all analogous. There are certain duties for which you require one class of person; there are other duties for which you require simply detective policemen. All the guards of

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of the treasuries and the gaols, which used to be supplied by the provincial battalions, were supplied by another set of men, maintained at another rate of wages, but distinct from the police. I do not think that the duties of the detective police could be efficiently performed by a military police of the nature which I have seen organized in Central India.

3624. It has been stated by a former witness that in Bombay a civil and sessions judge has the power of removing a principal sudder ameen without the sanction of the Government; is that the case in the North-Western Provinces?—No.

3625. Mr. *Newdegate.*] Have you found much difference in the qualifications of the natives for judicial offices among the inhabitants of different districts of India?—We always preferred getting men who were Mussulmans from the villages in the neighbourhood of Lucknow, as being better educated men, and men of higher attainments, and more respectable in character.

3626. For the purpose of enlistment in the army, is there much difference between the inhabitants of different districts?—Decidedly.

3627. Is that dependent upon caste?—Not entirely; it is rather dependent upon the habits of the people, whether the community has been long in a very civilized state, or whether it has been long under misrule, and in a state where might was right: there, as in the Central Provinces of India, the military spirit exists in castes lower than those which are ordinarily accepted in the regiments of the service.

3628. Is it your opinion that it is possible for any person who is being trained for the judicial office to acquire an adequate knowledge of the habits and character of the natives, if he remains long in the neighbourhood of the Presidency?—I think it is the very worst thing possible for the young civilians to be detained in Calcutta; I think they see there the worst specimen of the native character, in the shape of servants who can smatter a little English, and who like to be kicked about for the sake of being paid for it; they very often by that means get an untrue notion of the natives of India whom they may have to deal with afterwards. I think it would be very much better if young civilians, when they arrived in the country, were examined by a competent authority, and their attainments ascertained, the part of the Presidency they intended to go to fixed, and that then they should be sent to selected officers, to study under in the Mofussil.

3629. The Committee collect from your evidence, that the education of the civil European judges, before they are entrusted with the functions of their office, you regard as inadequate?—I think the system of Lord William Bentinck has given them a much better means of acquiring the capacity to be judges than the old system did, but it has this fault, that it gives them no opportunity of learning the routine of practice before they become judges of appeal.

3630. *Chairman.*] Is there any other suggestion which you would wish to make to the Committee?—I think it would be better if the entrance examination to Haileybury were confined to what a good scholar from a public school, at the age of 18, could pass, instead of its being necessary that a young man should be crammed before he goes to the examination.

3631. Sir *C. Wood.*] Would you alter the course of education which he receives at Haileybury?—When he had got there I should suggest that less attention should be paid to the classics than was paid in my time. The elements of law, and history, and political economy, I think, should be thoroughly worked into him, and the native languages should be well taught in their rudiments, so that a young officer when he arrived in India should have the means of applying that ordinary rudimental knowledge to every word he hears spoken of the native languages.

3632. Would you continue the education at Haileybury for more than two years, or do you think a young man would acquire all he need know in that time?—If he went there at 18 I think he might acquire all that is necessary before he arrives at the age of 20.

3633. At what age did you leave Haileybury?—I went there at 17, and left at 19: I passed my examination in India, entirely from the knowledge of Oriental languages which I acquired at Haileybury, without having looked at a book between the two occasions.

3634. Mr. *Mangles.*] Do you think it desirable that so much time as is now devoted

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devoted to the study of Orientals should be devoted to it still?—I am not aware of the system now adopted; all I desire to see is, that they should have a good rudimental knowledge of the vernacular languages when they arrive in India.

3635. What languages would you select?—I was never stationed in Bengal, but I found the Bengalee which I learnt of very great use to me among the Hindi people, inasmuch as, in whatever degree, it contained Sanscrit words.

3636. Supposing a certain amount of oriental study is to take place at Haileybury, would you confine it to Sanscrit and Arabic, which may be called the learned languages of India, or to the vernacular Bengalee or Hindostanee? —I would confine it to the vernaculars in essentials. I would add a little Persian, but not in any essential degree.

3637. Not Arabic nor Sanscrit?—I do not see the need of it for practical purposes. They may learn the Arabic language enough to know the form of the verbs in a few days; everything else which is essential to the discharge of their duties in Arabic has been translated into the vernacular, or into English.

3638. Mr. *Newdegate*.] The Committee understand from your evidence that you think it would be a wiser system for the Government to avail itself of the assistance of competent native judges than to expect advantage from sending barristers over from this country who had not previously to their leaving it studied the native languages?—I do not think barristers from England would be of any practical use in India; they would be of such an age that they could not acquire the native languages and the native customs so as to give confidence to the natives that they were speaking to men who knew them; and unless you can do that all your book learning is of very little use; unless you inspire confidence in the natives, and they feel that you understand what they say and what they feel, there is very little good to be done.

3639. Mr. *Mangles*.] You approve of Haileybury as a place of instruction?—Certainly. There was a deficiency in the discipline in my time; the students were treated neither as men nor as boys, whereas if they are at the age of 18 they may be treated as men. And there was a deficiency, in the minimum examination being a great deal too low; men passed who had not studied at all. But Haileybury had every capacity in my time for making a person fit for the service.

3640. Do you know enough of the system of education at the two great Universities to say whether the same amount of instruction could be acquired there that can be acquired at Haileybury?—I cannot speak to that.

3641. Mr. *Hardinge*.] Can you suggest any improvement in the course of study pursued at Fort William?—I recommend that nobody should stay at Fort William.

3642. Sir *C. Wood*.] Can you suggest any mode by which civilians should obtain a general knowledge of civil justice before they become civil judges, beyond what they acquire at Haileybury?—I suggest that they should be made assistant judges of original jurisdiction.

3643. *Chairman*.] That would give them practical experience?—Yes; other witnesses have mentioned, I think, that the decisions of the sudder courts are what they principally have to look to as precedents; the Regulations are plain enough for anybody to read; there is no previous study of them required; they can be referred to as a case arises for the law, and beyond them they must look to the precedents; those precedents are printed and epitomized.

3644. Mr. *Mangles*.] Have you seen the pamphlet published by Mr. Norton of the Madras bar?—No; I have heard of it, but I have not seen it.

3645. Have you seen any extracts from it?—I have read some cursorily.

3646. From what you saw, would it be applicable to the state of the administration of justice in Bengal and the North-Western Provinces?—I know nothing about Bengal; in the North-Western Provinces I cannot see that there is any ground whatever for such assertions; ever since Lord William Bentinck began his system there has been a gradual improvement going on; Mr. Thomason is carrying it out thoroughly, as far as I saw when I was in India, and I have heard of it since; nothing is now needed but a little more power in the local authorities to carry on the improvements faster than our Legislative Council will sometimes allow them.

2647. There is, practically, a good administration of justice in those provinces you think?—I think so; there was as far as I could see when I was in India. Of course I do not speak of my own court, but I was in the habit of mixing

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very much with the natives, and knew their feelings pretty well, and they are in the habit of corresponding with me. I have every reason to believe that the system is as perfect as it can be with such frequent changes of the local administrators as you necessarily have there.

3648. Mr. *Hardinge.*] There have been no complaints among the natives of the want of knowledge of the languages in the civil and sessions judges?—There were no civil and sessions judges in my neighbourhood who were deficient in the knowledge of the native languages.

3649. Did you ever hear of a civil and sessions judge who could not speak a word of the native languages?—No; I have heard of a judge of the circuit court who could not make himself understood in the native language.

3650. Sir *J. W. Hogg.*] How long is it since that court was abolished?—I think it was abolished in 1829; that is the last case of the kind I have heard of.

3651. Sir *T. H. Maddock.*] By way of initiating the civil officers into the administration of civil justice, you have suggested that a joint magistrate and deputy collector should have the judicial powers of a principal sudder ameen; how would he be instructed in the discharge of those duties?—I spoke of the original jurisdiction of a principal sudder ameen hearing original suits, as an assistant to the judge, under the judge's eye. The joint magistrate and deputy collector, at the station where there happened to be a judge, should be appointed assistant judge, with original jurisdiction to the same extent as the principal sudder ameen is, but with no appellate jurisdiction.

3652. You would expect the judge to supervise the proceedings of those officers?—There would be an appeal from them to the judge.

3653. Would there be in this way any mode of instructing them in their duties?—When I was register to Mr. Millett, at Allahabad, if he thought I was doing anything wrong he used to send to me and speak to me about it, and I used to go and ask him about anything that I desired to know in matters of law or practice.

3654. Sir *G. Grey.*] Is there any sufficient reason why the administration of justice is not equally good in Bengal, and the other parts of India, as it appears to be in the North-Western Provinces?—There is a difference in the character of the natives; the natives of the North-Western Provinces are more truthful, and more independent.

3655. Do you think that the different character of the natives in other parts of India entirely accounts for the difference which appears to exist in the character of the administration of justice?—I am not prepared to go to that extent.

3656. To what other causes do you attribute the difference, and are they causes which you think might be removed?—That is beyond my knowledge. I know nothing of Bengal. I cannot fancy it to be necessary that there should be that amount of crime which exists there.

Henry William Deane, Esq., called in; and Examined.

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3657. *Chairman.*] YOU have held various offices in the judicial and revenue departments in India during 25 years?—Yes.

3658. Latterly you were a judge of the Sudder Dewanny Adawlut?—Yes.

3659. Where was that?—At Agra, in the North-Western Provinces; there is only one Sudder Court in the North-Western Provinces, which is at Agra.

3660. You have lately returned, have you not?—A year ago.

3661. With regard to the zillah judges, has there been any improvement in that branch of the service during your acquaintance with it?—Very great; within the last 10 or 15 years much more attention has been paid to the judicial department than was paid to it before; also the passing of Act 12 of 1843 has contributed very much to the efficiency of the judicial administration; that Act obliges the judges to record their decisions at length in English, and those decisions are afterwards printed and circulated; as regards the Sudder Court, they are always translated into Hindoostanee, the vernacular language, and circulated among the native judges. Perhaps it would be well if the decisions of the zillah judges were translated likewise, and if those of the native judges were printed and circulated.

3662. Do

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3662. Do you think the judges should, previously to their appointment to that office, be employed, in the first instance, in revenue matters?—I do; I do not think any judge can be thoroughly efficient unless he has previously had some experience in the revenue department.

3663. What is the comparative inducement to men to enter the judicial service and the revenue service?—The judicial branch of the service is not, I think, placed on a sufficiently high footing as compared with the revenue branch; no person would take the office of judge who could obtain the office of Revenue Commissioner; the Revenue Commissioner is highly paid, and has very little to do; the judge, on the contrary, is not so well paid, and has a great deal to do; that circumstance, of course, leads men to take revenue appointments whenever they can; I think they should be placed, at least, upon an equal footing in point of salary; it must be remarked that there are very much fewer revenue officers than there are judges.

3664. Would you recommend that, when once a civil servant has adopted the judicial line, he should not be transferred to the Revenue Department?—I think it would be better that he should not; he should first have revenue experience, as I have said; but having once been made a zillah judge, I think he should look for promotion to the higher judicial posts, and not to revenue appointments.

3665. Are there any defects which strike you in the present mode of procedure in the Company's courts?—I think there is rather too much leaning towards technicalities; mere forms are allowed to have more weight than they should have, sometimes even to the prejudice of substantial justice. I can mention a case which occurred just before I left India, which will illustrate what I mean. There is a law, Act 2 of 1832, which provides that the police shall not make inquiry into cases of simple burglary and theft unless the aggrieved parties prefer complaints on unstamped paper to the darogah or police officer. This was done in order to repress the injudicious activity of the police. A case occurred in Backergunge, in which a thief was taken in the manner, and was carried away by the prosecutor and a number of witnesses to the tannahdar. The prosecutor did not give the petition on unstamped paper, as required by the law, but he verbally stated the case, and the tannahdar took it up and forwarded it to the magistrate, and the prisoner was convicted before the magistrate on the clearest testimony. Afterwards the Sudder Court in Calcutta got hold of the case, and they noticed this omission of the prosecutor to give the prescribed petition on unstamped paper. A consultation was held, and it was found that differences of opinion prevailed among the judges Consequently the case was sent to the sudder court at Agra for the opinion of the judges there. This was a case in which, as it appeared to me, grievous ill was done by too much adherence to mere technical forms. If there was anything in the argument that the omission to give a petition on unstamped paper was fatal to the case, so also, I suppose, had it happened that the petition was on stamped paper, the prisoner must have been released; at least that might have been held.

3666. Sir *G. Grey.*] The objection, I suppose, was that the complaint was made verbally and not in writing?—Yes.

3667. Mr. *Hume.*] What is your opinion with respect to requiring proceedings to be on stamped paper; is it in furtherance of the administration of justice? —I do not see that it impedes it.

3668. You are in favour of it?—Yes; it prevents unnecessary litigation very often.

3669. Sir *T. H. Maddock.*] You have spoken of its being expedient to make the salaries of the judicial officers as high at least as those of the revenue commissioners; would you lower the salary of the commissioners, or raise the salary of the judges?—That is so much a question of finance that I cannot give an opinion upon it; the revenue commissioners are very few in comparison with the judges; there are 30 judges in the North-Western Provinces, but not more than six commissioners.

3670. Would you have all the judges paid at the same rate?—All of an equal grade should receive the same salary.

3671. Mr. *Mangles.*] Were you ever a commissioner of revenue?—No, but I am pretty well acquainted with nature and extent of his duties.

3672. If a commissioner of revenue does his duty zealously, has not he plenty to

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to do?—I should think not in the North-Western Provinces, now that the settlements have been completed.

3673. Mr. *Hume.*] Is it your opinion that no man should be allowed to make a complaint of any robbery or insult unless he pays a fee?—He is allowed to make his complaint provided he is a pauper, or he is able to show that he has not the means of bearing the expense of litigation.

3674. What is the fee paid by a man upon making his complaint that he has been robbed or insulted?—He presents a petition on an eight anna stamp, in the first instance, to the magistrate.

3675. Can he be heard himself, or must he employ some one for the purpose?—He may be heard himself.

3676. You think the expense of that stamp prevents needless litigation?—I think if you allowed persons to present petitions on unstamped paper you would have a great deal of unnecessary litigation.

3677. Do you think people would present petitions without having some complaint to make?—Yes, I think so; as it is, there are very often frivolous and vexatious complaints made.

Lunæ, 2° *die Maii,* 1853.

MEMBERS PRESENT.

Mr. Baring.	Sir T. H. Maddock.
Mr. Bankes.	Mr. Elliot.
Sir C. Wood.	Mr. Hume.
Mr. R. H. Clive.	Sir R. H. Inglis.
Mr. Mangles.	Mr. J. Fitzgerald.
Sir George Grey.	Mr. Vernon Smith.
Mr. Cobden.	Sir James W. Hogg.
Mr. Hildyard.	Mr. Lowe.
Mr. Labouchere.	Mr. Ellice.

THOMAS BARING, Esq., in the Chair.

Henry William Deane, Esq., called in; and further Examined.

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3678. Mr. *Hume.*] WILL you state to the Committee why you think that the fees on proceedings in courts of law in India are necessary?—The object of the tax, of course, is financial; the effect of it is to repress frivolous complaints.

3679. And you think the tax has that effect?—Undoubtedly.

3680. *Chairman.*] Do you consider that to be the best mode of preventing excessive litigation?—I think it is one of the best modes.

3681. In your evidence on the former day you gave your opinion as to the defects of the present system, and you gave examples of the danger of adhering too much to technicalities; will you state what remedy you would propose for the existing defects which you have mentioned?—The language of the law, occasionally, is not sufficiently precise, but in general the remedy lies with the superior courts themselves; it consists in a sounder and more enlightened interpretation of the law.

3682. Would you suggest that there should be a new code of laws applicable to the natives?—No; I think the law is sufficient for the natives of India so far as it goes. It does not always go far enough; points occasionally arise which are not provided for by the existing regulations. To say that the law is defective, is only to say what might be said of any system of law which ever existed since the world began. There is no point at which the functions of the legislator stop; his task is a constantly progressive task. Where points arise in our courts in India which are not sufficiently provided for, they are met by precise legislative enactment.

3683. That progressive task you would confide to the Legislative Council in India?—Yes.

3684. And

3684. And you would not introduce any new and explicit code?—Not as applicable to the natives. India has the advantage of a system which has grown up with the people, which has extended with their wants, and is capable of still further enlargement and improvement, in order to keep pace with their progress in civilisation. I am quite sure that all violent and sudden changes would be most injurious to India; no reforms are permanent, or have a principle of growth, except moderate reforms. All experience has shown that.

3685. Is it your belief that those reforms of which you speak are being gradually introduced under the present system of the administration of justice in India?—It is.

3686. And you consider that that is the best mode of introducing such changes as may be desirable?—Certainly.

3687. With regard to other than natives, would you have a code applicable to them?—A general code is, no doubt, wanted to embrace all classes of the community.

3688. Would you suggest any change in the zillah courts as regards the suits which are now tried by the principal sudder ameens?—It might be well if the judges exercised original jurisdiction more than they do; in practice, the court of the zillah judge in civil cases is an appellate court only; he rarely tries original cases; it might be well if he tried those cases the value of which is above 5,000 rupees, which are now tried by the principal sudder ameens; it might give him a greater insight into the mode of procedure in original suits than he now has, which might help him in his appellate capacity; it would rest with the sudder court to enforce any such arrangement.

3689. Will you state what you mean by a general code to include all classes?—A code of civil and criminal procedure.

3690. Sir *R. H. Inglis.*] Would this general code which you say you desire to apply to all classes, involve the supercession of the Hindoo law, the Mahommedan law, or the British-Indian law?—I think the present law, as regards the natives, should form a component part of the new code.

3691. That it should be absorbed into it?—That it should be merged into it.

3692. Mr. *Mangles.*] Do you mean that it should be such a law as would render Englishmen residing in the Mofussil subject to the same jurisdiction as the natives?—Yes.

3693. A general code of law, which should embrace all parties resident in India?—Yes.

3694. Sir *T. H. Maddock.*] Your answer was, that you would recommend a code of civil and criminal procedure; you would not thereby alter the substance of the law of the country?—No.

3695. Mr. *Bankes.*] You would include that law in the general code which you propose?—Yes.

3696. And make one general code for the whole empire?—Yes, such a code is desirable; the task would be difficult, no doubt.

3697. *Chairman.*] Will you suggest any alterations that you think desirable in the mode of procedure in the zillah courts?—As regards Europeans, they are now subject, in criminal matters, to a court at the Presidency only, the Supreme Court; it would be better if they were brought under local jurisdictions. A great evil is sometimes inflicted in taking a man, being a European, 1,000 miles, to Calcutta, in order that he be tried there.

3698. Mr. *Mangles.*] Is not there virtually very often a denial of justice?—I do not remember any particular instance in which I could say that justice has been denied.

3699. Unless the case is a very heinous case, a case of murder, for example, in regard to which the expense would be no object, and there would be a necessity to bring the criminal to justice, would it not lead to a denial of justice that the witnesses of the prosecutor must proceed a distance of 1,000 miles?—It might be so; but it does not always happen that cases of an aggravated nature alone come into the Supreme Court. A short time before I left India a person forged a draft for 20 or 24 rupees; he was taken down from the North-Western Provinces, to be tried in Calcutta for that offence.

3700. Mr. *Hume.*] Was he a European?—Yes.

3701. Sir *C. Wood.*] How would you have had the man tried?—By a local court.

3702. By what local court?—In the first place, the magistrate should take

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cognizance of the case, as he does now; the case would be tried by the sessions court, if its final disposal were not within the magistrate's competence, and the appeal would lie to the sudder court, as is the case now.

3703. Mr. *Hume*.] You wish the Committee to understand, that in every zillah the offences both of Europeans and natives should be treated in the same way?—It would be better if there were a fusion made.

3704. Sir *R. H. Inglis*.] In your answer to Question 3365, you referred to a case at Agra, but you did not state what was the final result of that case?—I omitted to say, that either by the order of the sudder court, or of the sessions judge, I am not quite certain which, but I think by the order of the sessions judge, the prisoner was released on the ground of the informality which I noticed.

3705. In point of fact, then, substantial injustice was done?—Substantial justice was defeated.

3706. You have not stated what offices you held, and what was the period of your service, when it commenced, and when it terminated?—I was, in the first instance, appointed, as was the custom then, assistant to a collector and magistrate. I was next a joint magistrate and deputy collector; afterwards I was deputy collector for the investigation of claims to hold lands rent-free; afterwards a collector and magistrate, then a zillah judge, and latterly a judge of the sudder court.

3707. And you have now left the service?—And I have now left the service.

3708. *Chairman*.] Would you introduce *vivâ voce* evidence in the zillah courts? It would be highly desirable to do so. That question came before the Legislative Council just before I left India; a draft of an Act was prepared, in which it was proposed, among other things, to take evidence *vivâ voce*. I do not know whether the Act has been passed; undoubtedly it would be of great use; the truth would be, on many occasions, elicited by cross-examination; the judge now has nothing but the record.

3709. If you made it compulsory, would it not interfere with certain prejudices of the natives against appearing in the courts?—A very few natives dislike appearing in courts of justice to give their testimony, but in the majority of cases there would be no such inconvenience.

3710. Would not the distance often be an impediment?—It would not operate as an objection more than it does now.

3711. What is your opinion as to the employment of juries in the zillah courts?—In my opinion the experiment has not succeeded. A jury has seldom been associated with me on a criminal trial which did not give me the impression of being either foolish or dishonest; the institution is a most unpopular one; natives of respectability will not, if they can help it, serve as jurors.

3712. Do you mean by dishonest, that they do not exercise an independent judgment, that they are guided by the opinion of the judges; or do you mean that they are influenced by more unworthy motives?—By more unworthy motives; those who contend, and I believe there are many, for the advantages of the jury system, do not, as judges, scruple to set aside their verdicts; and I can say, that in appeals to the sudder court the verdict of a jury is not allowed much weight.

3713. Do you generally attach much credit to native testimony?—Very little.

3714. Has there been any improvement of late years in the character of the evidence of the natives?—I think not; perjury is very common; it is, in fact, almost universal; there is scarcely a case which comes into a civil court in which perjury is not committed by the witnesses.

3715. Is that peculiar to particular classes of natives; or do you make it as a general charge against the natives?—I do not make it as a charge against the natives; I am speaking of the character of the people. The duties of a pure morality are not inculcated in any system of education in India. Morality depends upon sentiment; men have regard not so much to the abstract quality of an act, as to the esteem in which it is held. A man who commits perjury and forgery in India is held in no disesteem; therefore, it would be very difficult to prevent perjury and forgery by penal enactments.

3716. How is a judge to elicit the truth?—He walks by the light of nature; he disposes of a case according to the probabilities of it, according to that measure of sagacity with which Providence may have seen fit to endow him.

3717. The Committee understand you to say, that you do not apply your evidence to any particular class; do you apply it to those who are attached to any particular creed: for example, is your opinion the same with regard to Mahomedans

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Mahomedans and Hindoos?—Yes. There are some men in India, as in all countries, who will not tell a lie. I am speaking of the general body of the lower classes, of the persons who are usually witnesses in the courts of justice.

3718. You have probably seen the book written by Mr. Norton?—I read an article respecting it in "The Times" newspaper; I have merely looked at the pamphlet; I have not read it through. Some of the cases were cited in "The Times," and it appeared to me that they would admit either of explanation or defence. In one case, the judge is said to have made over the thing in dispute to the collector, because having been a collector, he had an irrepressible leaning towards the fisc. I take it that that was a case of land which had escheated to the Government, and that the judge simply acted under the law in transferring it to the collector.

3719. Sir *R. H. Inglis.*] Is that like what, in the English law, is called a heriot?—Yes, it is; it falls to the Government. In another case it was made matter of blame that the judge gave the plaintiff a decree, although payment of the amount sued for had been admitted. It might be, however, that there were several co-plaintiffs in an action, and that one of them was prevailed on by the defendant, after the institution of the suit, to put into court a receipt for the sum claimed; in that case, if the judge was satisfied, from the evidence before him, that the debt had not been paid, and that the putting in the receipt was a collusive transaction between one of the joint plaintiffs and the defendant, he was quite right in passing a decree in favour of such of the plaintiffs as had not admitted payment of the debt. Fraudulent and collusive transactions, of the nature I have described, are common in law proceedings in India. It is to be understood that I merely give the impression on my mind. Unless the cases were before me I could not speak confidently as to their merits.

3720. *Chairman.*] Taking the particular cases to which you allude to be as they are stated, do you consider them a fair specimen of the mode of administering justice in India?—By no means.

3721. Do you think that such errors of judgment or of knowledge are of frequent occurrence?—I am far from sure that the majority of the cases constituted errors of judgment at all; some of them did; there are some I profess myself unable to comprehend. The first case is that of a man who sued for 55,000 rupees, and not having established his case, was fined 55,000 rupees. That appears to me a hard measure to deal out to a plaintiff.

3722. I understand you to say that if such cases did occur, they were an exception to the usual course of the administration of justice in India?—Certainly they were.

3723. Sir *T. H. Maddock.*] There was no such practice in the North-Western Provinces?—No.

3724. *Chairman.*] Are the native judges highly considered in India?—Some of them are; a good many are not held in much repute.

3725. Is it your opinion that the majority are men of repute?—Yes, I think they are.

3726. We have heard that they have an examination; is that a strict examination, and is care taken as to their selection?—The examination is strict, and great care is taken as to their selection; but the Government, who appoint officers above the grade of moonsiffs, that is, the sudder ameens and the principal sudder ameens, and the sudder court who appoint the moonsiffs, are necessarily dependent upon the local officers for information respecting the character of a man; his qualification, in point of talent and knowledge of the law, may be judged of from the examination he passes, but that will not show what character he bears; reports, however, are given by the local authorities.

3727. Great care is taken, you think, in their selection?—Yes, as much care as can be taken.

3728. Sir *T. H. Maddock.*] Does law form any part of the instruction in the colleges of Benares, Delhi, and Agra?—I think not.

3729. Is there any separate institution for instructing students in law in the North-Western Provinces?—There is no separate institution; if they learn it, they can only learn it at the College of Agra.

3730. At the Mahomedan schools and colleges the students are instructed in the Mahomedan law, are not they?—They are.

3731. *Chairman.*] Should you recommend the promotion of the native judges to higher situations in the judicial department?—No; they have as much power

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as ought to be entrusted to them; they have very extensive powers, especially the principal sudder ameens. A principal sudder ameen tries cases to any amount, subject to an appeal to the sudder court. He also hears appeals from the inferior judges; in those cases his decision is final, subject only to a special appeal; that special appeal must rest, not on the merits of the case, but on the ground that the decision appealed against is at variance with some law or practice of the courts; so that, with the exception of a special appeal, the principal sudder ameen exercises, frequently, final powers.

3732. Are the Committee to understand that your opinion is, that it would not be safe to trust the native judges with full power without the supervision of a European judge?—I think not; the time has not arrived for that.

3733. You alluded to the crimes of perjury and forgery; are those on the increase, or have they, to your knowledge, diminished?—I do not think they have increased or diminished much; they are committed as much as they used to be, and not more. Cases of perjury constantly come before the sudder court, and I believe they have always done so.

3734. A previous witness recommended that the vakeels should be promoted to the situations of native judges, without passing through the subordinate ranks; would that be desirable, in your opinion?—If good selections were made, there are some men in the sudder court at Agra who are very able, and well qualified to hold any judicial appointment which a native now holds; but they would object; they make a good deal more by the exercise of their profession than they would receive as judges.

3735. Would you recommend that the salaries of the native judges should be increased?—The salaries of the lower grades. I do not think they are sufficiently well paid; a moonsiff receives 100 rupees a month. That is scarcely enough to enable him to maintain the respectability of his office.

3736. Sir *T. H. Maddock*.] Is the salary of the principal sudder ameen now established upon such a footing as to place him relatively in a position of equality with a European judge?—Yes, I think it is.

3737. That is so say, he has 600 rupees a month?—Yes.

3738. And the European judge has four times that amount?—Yes.

3739. You think that proportion is adequate to place them, considering their wants and positions, upon a footing of equality?—Yes; whatever a native purchases, is purchased for less than a European pays, and in a climate such as India, many things are necessary to a European, which a native of the country has no occasion for.

3740. Mr. *Elliot*.] It must be considered also that they have no family to bring up in another country?—Yes.

3741. *Chairman*.] I gather from your evidence that it would not be your opinion that the use of the English language should be made compulsory in the Company's court?—Certainly not. I think if you send out barristers to plead in the Company's courts, those who have qualified themselves in the vernacular language of the country might be very useful in those courts; but to send out a whole host of barristers fresh from Westminster Hall, and turn them loose, hungry after a long fast, upon the provinces of India, would almost justify a rebellion throughout the country.

3742. Mr. *Hume*.] What is the punishment awarded to perjury, which you state to be so frequently committed in India?—A man who commits perjury is liable to imprisonment for seven years; that sentence may be mitigated at the discretion of the sudder court.

3743. Are such punishments frequent?—Punishments are frequent, but still the crime is common.

3744. Are those who have been punished for perjury once, allowed to become again servants, or to be connected with the court?—They would not be allowed to become servants of the Government; their evidence is admissible.

3745. Are you able to suggest any mode by which that practice, so injurious to the interests of justice, could be put an end to in India?—By educating the people, by teaching them more than you do now the duties of morality.

3746. You think that that would be the best course to pursue?—It appears to me the only course.

3747. Do you consider that any strict conduct on the part of the judges in punishing perjury in every case would not be useful?—I do not think it would be sufficient.

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3748. Mr. V. Smith.] Do you mean that an imprisonment for seven years is often inflicted?—Very often; it may be mitigated.

3749. In point of fact, sometimes it is so?—Yes, it may extend to seven years, but it must not, under the law, be less than three years; the Sudder Court have the power of mitigation, where a less term of imprisonment than three years may seem proper.

3750. Mr. *Mangles.*] Is it not the fact that in India there is no moral reprobation of such an offence by the native community?—That is the case.

3751. It has been stated in a well-known essay upon Warren Hastings' life, in reference to the trial of Nuncomar, that the natives of India generally regard the crime of perjury and forgery very much in the same point of view in which a Yorkshireman would regard the selling of an unsound horse for a sound one; do you believe that to be a true statement?—I think that represents the state of feeling; the jockey would not be ill received among his friends; probably he would win an additional reputation for his ability; and so a man is held in no disesteem in India on account of perjury or forgery.

3752. Is not it the case that in the North-Western Provinces the word which signifies "philosopher" is almost universally applied to a cunning successful rogue, who lives and thrives by fraud?—Yes.

3753. Sir *R. H. Inglis.*] Do you mean that the crime you have spoken of is not at present prevented by education, is not repressed by public opinion, and is not discountenanced by any sentence of ignominy passed upon the perpetrator by a judicial tribunal?—It is not; education would be powerful to repress it.

3754. Mr. *Mangles.*] Does not the state of things which you describe with regard to the almost universal prevalence of perjury and forgery, render the administration of justice necessarily very difficult?—Very much so.

3755. Are men, who are only cognizant of the manner in which justice is administered in this country, and with the facilities which the high moral feeling of the people gives to the administration of justice here, competent judges of the difficulties of the administration of justice in a country like India?—They are utterly unable to form an opinion upon the subject.

3756. Mr. James Mill says in his History, "Such is the difficulty of the administration of justice to a people, without the assistance of that people; such is the impossibility in the present state of morals of the people of India, of obtaining that assistance effectively from them." Do you believe that to be a correct representation of the state of things?—I do.

3757. In Mr. Norton's book, you may remember there are a number of very strong comments upon the leniency with which criminal justice is administered, in regard to capital punishments; a woman who had killed her children was sentenced to transportation, which is spoken of in terms of high condemnation, as it is said that the woman ought to be hung; do you think the state of feeling and opinion in India is such, that it is necessary to administer criminal justice with that extreme severity?—I think not.

3758. Very often the passions of the people have such a sway over them, and they have so very little sense of right or wrong, that it would be cruelty to administer criminal justice with extreme severity?—Yes; I think a good discretion was exercised in the case to which you refer.

3759. You said that the fitness of the native judges for the higher offices was a question of time only?—Yes.

3760. Are you of opinion that they have improved, and are improving?—I think they are.

3761. And that if the present system is persevered in, it will in time work itself pure?—Yes.

3762. And the natives will eventually be fit for still higher offices?—Certainly.

3763. And you think that things are now in the right course, and tending gradually to that end?—Yes, a very good system is being built up.

3764. Sir *T. H. Maddock.*] Will you state to the Committee what is the punishment for perjury according to the Mahomedan law?—I believe that perjury was, on the whole, more lightly punished than with us; but the Mahomedan law has no place in the sentences for perjury passed by our courts.

3765. Is there any ignominious punishment attached to it by the Mahomedan law?—Yes, and there was formerly under our own law, but that has been done away with.

3766. Do you consider it advantageous to have discontinued the infliction of ignominious

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ignominious punishments in cases of perjury in India?—Yes, I think it desirable to discontinue it in any country.

3767. Mr. *Bankes.*] Have the Hindoos any ignominious punishment for perjury?—No, I think not.

3768. *Chairman.*] Have you any suggestions to make respecting any change which should be made in the Sudder Court?—Those Europeans who are residing in the country ought to be subjected to the local jurisdiction, if possible; in that case it would be desirable to have one or two English lawyers associated with the sudder judges.

3769. Mr. *Hume.*] Looking to the Sudder Court as it is now constituted, do you think any improvement could be made in it by a junction with the Supreme Court, or in any other manner?—Yes; an improvement would be made.

3770. Will you state what you think would be the best mode of improving it?—It would be well if English lawyers, persons who had qualified themselves for the exercise of their profession, were associated with the judges of the Company's courts, but the English lawyers should be in a minority; you should have one to three or two to five; otherwise some mischief might be done. There might be too great a disposition to dwell upon legal subtleties, and it requires not only a clear and masculine, but a trained and practised understanding to determine the exact value of a legal subtlety.

3771. Would you consolidate the two courts into one, or have them separate?—I would consolidate the courts into one.

3772. Sir *T. H. Maddock.*] In your opinion, does not justice require that in the case of all European criminals in the North-Western Provinces there should be a court where their cases could be finally disposed of; that in that court there should be what we call an English judge, as well as a provincial judge?—I think so.

3773. Is the number of the European residents in the North-Western Provinces increasing?—I believe it is.

3774. And the number of the European soldiery, as the Committee is aware, has greatly increased?—Yes.

3775. Do you see any difficulty in an amalgamation of that description, as far as the administration of the two systems of law is concerned?—No difficulty which might not be overcome.

3776. In what manner would you get rid of any apparent difficulty; would it be by a codification of law?—Yes; by a general code, which should embrace all, but retaining so much of the present code as applies to the natives.

3777. Sir *R. H. Inglis.*] You object to ignominy as a part of the punishment for perjury; is not ignominy an almost essential part of all punishments in criminal cases, except in political cases?—The natives in India do not hold that there is any ignominy in mere imprisonment.

3778. Though the natives do not regard ignominy as connected with imprisonment as a punishment for forgery and perjury, still you would not add any mark of ignominy as an essential part of the punishment?—I think, on general grounds, it would be very undesirable; we should be said to retrace our steps to India.

3779. Mr. *V. Smith.*] What would you consider an ignominious punishment?—Putting a man upon a jackass, or blackening his face.

3780. Sir *T. H. Maddock.*] Have we not already retraced our steps in respect to the re-introduction of corporal punishment?—So far we have. It is, however, not often applied except to juvenile offenders, and is rather in the nature of school discipline. I might add, that the crime of perjury is rendered more frequent by the introduction of Act 5, of 1840, which has abolished the use of the oath on the Ganges water. There are many persons in India who would not scruple to tell a mere lie, but who would have great hesitation in taking a false oath with the Ganges water in their hands.

3781. Sir *R. H. Inglis.*] The employment of that oath has been abolished?—Yes; its abolition has taken away what little security for veracity there was.

3782. What is the present form of oath?—Merely a solemn declaration, which is regarded as not at all binding by the great body of the people who make it.

3783. Mr. *Cobden.*] What was the motive for changing the form of the oath?—I have heard that the Government were of opinion that respectable persons were unwilling to come into courts of justice and to take the oath. I do not, however, think that the class had in view were so unwilling to take the oath in courts of justice as to come there at all. My own experience would lead me to say

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say that natives of respectability, in general, had no great objection to take the oath.

3784. Mr. *Mangles.*] Is not it the case that many Hindoos of particular castes, or with particular feelings, consider it to be a sin to take an oath on the Ganges water, without reference to its truth or falsehood?—There are such classes.

3785. Was not it very desirable for their sakes to abolish the practice?—The class referred to is, I think, very small.

3786. Sir *T. H. Maddock.*] Are you aware of any mode which is practised in the native courts of justice of administering oaths which is considered binding by the natives?—Yes; they have such a mode.

3787. What is it?—One mode is, for a man to place his hand on the head of his son.

3788. Is it not believed that a man who takes that oath, placing his hand upon his son's head, will invariably be found to speak the truth?—I believe he will; he dares not violate that oath.

3789. Do you see any objection to the use of a similar oath in the British courts, if there is no other mode in which you can be sure of compelling a man to speak the truth?—I would introduce that form of oath which binds a man most.

3790. Has that form ever been used, to your knowledge, within any of the British courts?—I am not aware that it has.

3791. Sir *C. Wood.*] Is not it the practice in India, according to what is the law in this country, to swear every man by the oath supposed to be most binding upon his conscience?—No, they have a solemn declaration, which a man does not consider binding on his conscience; the form of oath has been abolished in the courts of justice.

3792. Sir *J. W. Hogg.*] Did not the question very frequently arise in courts of justice, when natives of a particular caste were called as witnesses, whether they should be sworn on the Ganges water, or whether they should be sworn by a pundit reciting a certain portion of the Vedas, or holy writings?—Yes, there were many different forms of oath. It was usual, for instance, to swear a Chinaman by breaking a saucer; and I once happened to be present at a court-martial, where a man of low caste was brought in as a witness, and was asked on what he would be sworn; he answered, on brandy; accordingly, a small quantity of brandy was poured into his hand, and his evidence was taken.

3793. I am confining my question to Hindoos; was not it constantly a matter of dispute with witnesses whether they should be sworn upon the Ganges water, or whether they were of a degree to entitle them to be sworn by having a certain portion of the Veda recited to them by their priest?—Yes, it sometimes was.

3794. Did not that give rise to great difficulty in administering justice?—To some difficulty.

3795. Mr. *Elliot.*] Would the mode of swearing a man upon the head of his son operate as much with the lower classes as with the higher classes?—I think it would not operate upon the lower classes so much as upon the higher classes; but to some extent it would operate.

3796. Sir *R. H. Inglis.*] Did not the Rajah of Tanjore obtain the obtestation of Schwartz for the care of his son by putting that son before Schwartz, and getting him to put his hands upon his head?—I do not know.

Javanjee Pestonjee, Esq., called in; and Examined.

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3797. *Chairman.*] HAVE you any experience of the administration of justice as it is conducted in the Company's courts in the Bombay Presidency?—I have.

3798. Will you inform the Committee how you consider justice is administered there?—It is not so satisfactorily administered as could be wished; the defects to which I may be permitted to draw the attention of the Committee are these: first, I would point out how the cases are carried on up to the final appeal; in the first instance, they are tried by the native judges, under the denomination of moonsiffs, sudder ameens, and principal sudder ameens; an appeal lies from their decision to the English judge or to his assistant, who are appointed from the covenanted service; from their judgment an appeal lies to the Sudder Dewanny Adawlut, the highest Company's court in India. The cases carried on through those

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those several stages are subject to great delays; in some instances, to obtain a final decision in the Sudder Adawlut, it has taken a period of three years at least, and in some cases even 10 years. The mode of the examination of the witnesses is another obstacle to the expedition with which cases ought to be carried on; it frequently happens that in some cases from 15 to 20 witnesses are brought up; their examination is taken down upon paper, which not only lengthens the proceedings, but, in a great measure, unnecessarily wastes the time of the court. Other abuses arise from the incompetency of some of the English judges, who are not sufficiently acquainted with the languages in which the proceedings are carried on, or with the Mahomedan or Hindoo laws; in such cases they frequently place themselves in the hands of their subordinates, the sheristadars, who receive a very small salary, say from 70 to 80 rupees; in case the parties are not then satisfied with the decision, they are ultimately left to a fresh appeal to the Sudder Dewanny Adawlut.

3799. *Chairman.*] Can you suggest any mode of reforming those evils or defects which you mention?—First of all, courts of requests, such as they have in Bombay, to decide minor cases, and also such as the county courts in England, should be established in every talookah; those should be composed of the patell or zemindar of the district or town, with two other respectable inhabitants, and they should be authorised to adjudicate upon those cases, and their decision should be taken as final. It would prevent the poor people having to undergo the expense of litigation which they now have to encounter, in order to obtain a just decision. Judges should be selected who have a thorough knowledge of the language in which the proceedings are carried on, and who are well acquainted with the Hindoo and Mahomedan laws. Assistant judges should also be selected who have a similar knowledge; but I would suggest that the judges and their assistants, for the purpose of acquiring an acquaintance with the customs and usages of the country, and the manners of the people, should in the first place be appointed as assistant collectors and magistrates; during that time they would obtain a thorough knowledge of the customs and usages of the people, and become acquainted with the laws; so much of the business in the interior being connected with revenue matters. After a certain term of years they should be appointed to the situation of assistant judge; but before that they should undergo a strict examination, the same as the natives do, before they get their diploma. This mode of examination by the Sudder Adawlut is highly approved of; I may be permitted to mention how they carry it on: first of all, the candidate is examined in the knowledge of the Company's code of laws; then he is questioned about the mode of procedure in the courts, and the different laws; last of all, he is given a case already decided in the Sudder Dewanny Adawlut; he examines the papers, and pronounces his judgment: if that coincides with the judgment of the Sudder Dewanny Adawlut, then he is entitled to his diploma. I should suggest that the same examination should be gone through in the case of members of the civil service who obtain that appointment.

3800. You would not be in favour of appointing barristers fresh from this country, whatever might be their legal knowledge here, to preside in the Company's courts?—It occurs to me that they are trained in the English law, while the law of the Company's courts is framed on the principle of the religion, usage and customs of the people of India, which is more suited and more acceptable to the people than the English law. I should say that the appointment of those barristers would be advantageous, provided they have a knowledge of the language in which the proceedings are conducted, and are acquainted with the Mahomedan and Hindoo laws, otherwise I should think that they might as well go to Russia and administer the English law there.

3801. Mr. *Mangles.*] Among his other requisites, ought not such a man to be acquainted with the habits and manners of the people?—Decidedly.

3802. You said before, that in order to be a judge, the officers ought to go through the Revenue department; would a barrister be competent to be a judge without having gone through the same course of instruction?—I think they have a superior education, and a superior knowledge of the law; they know the theory of the law, and of course they are capable to practise it.

3803. Mr. *Elliot.*] Would they have the means of becoming acquainted with the habits and customs of the people, which you said just now was so essential to their becoming good judges?—I do not think so, unless they reside in the Company's territory for the purpose of acquiring that knowledge.

3804. Without

3804. Without that knowledge they could not become good judges in India?—I do not think they could.

3805. *Chairman.*] Would you recommend that the English language should be used in the Company's courts?—Decidedly not; the majority of the people are only acquainted with their own language, and the judge who has to administer justice should do so in a language which they understand.

3806. Would it be more satisfactory if juries were always employed in India?—I do not think that in the interior you could get a sufficient number of jurors; the people there are quite averse to serve as jurors, because many of them are engaged in husbandry and other occupations; they have first of all to think of earning their subsistence before their time is occupied with other duties; in some complicated cases, I think, if the assistance of juries could be obtained, it would be useful, and it would assist the judge in arriving at a proper conclusion.

3807. In complicated cases of civil law, you mean?—Yes.

3808. Mr. *Elliot.*] Do you mean that there should be juries before the judge, or would you prefer having punchayets?—In Bombay and other places, the bankers and other persons never go to a court of law; they have a society among themselves; they appoint one of their body as President, assemble together, and decide the question at once.

3809. By arbitration?—Yes.

3810. Mr. *Mangles.*] Do not they like the Supreme Court?—I think the people of the interior would not like the Supreme Court.

3811. Do the people of Bombay like the Supreme Court?—Yes.

3812. You say they settle their cases by arbitration in preference to going into the Supreme Court?—They do.

3813. *Chairman.*] You have been engaged in business?—I have been a banker.

3814. Have you been long in England?—I have been here since July last; I was here once in 1851.

3815. You are aware that people engaged in commerce in this country like to keep out of courts of law if they can; and would you rather settle things by arbitration?—Yes.

3816. The same feeling exists, therefore, without any particular objection to the courts?—Just so.

3817. Mr. *V. Smith.*] Is not going into court very expensive?—It is.

3818. That may deter some?—Yes.

3819. *Chairman.*] Do the judgments of the native judges give general satisfaction?—They do.

3820. Would you prefer the judgment of a native to that of a European judge?—I think that if the judges were equally competent, I should have no preference.

3821. You would have equal confidence in the integrity of both?—Yes; there is no question about the integrity and the morality of the civil service. There are many civil servants who are quite competent, and thoroughly understand the duties of their office; those even who do not possess a knowledge of the law, are willing to discharge the duties of their office with impartiality.

3822. Is the same confidence entertained in the integrity of all the native judges?—Yes; of course you will find black sheep in every flock.

3823. Do you think the native judges are sufficiently paid?—I do not; they are very inadequately paid. I think they have to perform more duties than the English judges in civil cases; the English judges only sit on appeal; the natives try the cases.

3824. Mr. *Mangles.*] Does not the English judge administer the whole system; he is a sort of president in the district, and apportions out the suits, so many to this judge, and so many to that judge; so that besides sitting in appeal he has the superintendence of the whole judicial administration of the district, has not he?—He has.

3825. Mr. *Elliot.*] Has not he also the execution of all the decrees?—Yes, he has to issue orders for their execution from the Sudder station, which are carried into effect in the interior by the native judges.

3826. All the miscellaneous business is carried out by the judge?—Yes.

3827. Is not that a very important part of the duty?—Yes.

3828. And a very laborious part of it?—It is.

3829. And one which requires a very correct knowledge of the manners and customs of the people very often?—Of course.

3830. What would you consider to be a fair proportionate remuneration for a native

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native judge, in comparison with an English judge; should it be half, or two-thirds, or what amount would you fix on as a fair remuneration?—I should say that, on account of the inadequate salary at present given to native members of the judicial and other branches of the service, many persons of the superior classes are deterred from entering it. I think if they were adequately paid you would find that many persons of respectability in the higher classes would willingly join the Company's service; I should say that, in order to render them independent of other pursuits, the salary of the highest of the native judges should be at least 1,200 or 1,500 rupees a month.

3831. You mean the principal sudder ameen?—Yes.

3832. That would be about half the salary of an English judge?—About half.

3833. Do not you think that, taking into consideration the much greater charges which a European must be subject to in living in India, and the still more heavy expense which constantly comes upon him in consequence of his being obliged to send his family to England, and bring them back again, sometimes once or twice during his service, and maintaining his family in England, his expenses must be more than double that of a native judge?—I should say that they are, but at the same time you will find that among the natives themselves, they marry and have a large family in early life; there is no pension left to their widows at their death; they are now entirely dependent upon their small salary; formerly the uncovenanted service were entitled to a pension from the Warden Official Fund, which was abolished by the Government, and a superannuation pension was substituted. By that a member of the uncovenanted service, after a certain period, is entitled to half of the amount, and their widows and children remain unprovided for. Any person taking employment in the Government service should have no connexion with any trade or other pursuits; he should be dependent upon his office only, in order to give satisfaction to the people and to the Government; besides he should be able to make provision for his family in case of death. You will find that according to Hindoo usage, the widow never marries again, and they are therefore utterly destitute of support.

3834. Is there any provision made by the Government for the widows and children of the covenanted officers of the Government?—They are handsomely paid, and they retire on 1,000 *l.* after a certain period of service; their widows are provided for from that fund; the uncovenanted servants have no such fund.

3835. How is the fund provided?—I think the service subscribes to it.

3836. Then it is not established out of their own earnings?—It is; the natives were subscribing to the Warden Official Fund, but it was abolished.

3837. Is not the civil fund created by deductions from the salaries of the civil service itself?—It is.

3838. Then they derive no benefit from any Government contribution, as far as the civil fund is concerned?—I think not.

3839. As regards the 1,000 *l.* a year to which you allude, do not the civil service also subscribe a large portion of the funds necessary to provide that?—They do, and I should wish that a fund, on the same principle, should be established for the natives; they are willing to subscribe to it.

3840. *Chairman.*] You stated, in the beginning of your evidence, that you thought the administration of justice was not satisfactory in Bombay, and you instanced the evils arising from delays; is that the only ground of your objection to the present administration of justice?—The delay, and what I have said about the presiding judges not being acquainted with the language and the customs of the people. The procedure of the court, also, is a very tedious and long one; I think that that should be reformed, and that such reform should be effected by the local government.

3841. Mr. *Elliot.*] How many languages would it be necessary for a judge at Bombay to be acquainted with in order to be able to go to the various parts of the country and act with the full knowledge of the language of each part of the country which you think necessary?—Three: the Mahratta, the Guzzeratee, and the Canarese.

3842. *Chairman.*] Have you ever found the judges ignorant of the native language, or do your observations upon that subject apply to the assistant judges only?—I think the judges sometimes are ignorant of the languages in which the proceedings are carried on; then, of course, they must ask the opinion of the sheristadar.

3843. Where

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3843. Where have you principally resided?—Principally in Bombay and in Tannah and Poonah. We have family property in the Poonah and Tannah collectorate.

3844. Sir *T. H. Maddock.*] Of what language was the judge ignorant to whom you refer?—The Mahratta.

3845. Probably that same man could speak Hindostanee?—Yes.

3846. Mr. *Elliot.*] In what language does the judge communicate with the sheristadar when he asks his advice as to what is going on in the court?—In Hindostanee; the papers are read in Mahratta.

3847. The civil servants generally know Hindostanee, do they not?—They do.

3848. What is the reason of their knowing Hindostanee?—Hindostanee is the prevailing language there; it is spoken like French on the continent of Europe and in other places.

3849. How does it happen that they know Hindostanee, when Hindostanee is not the language of the country, and yet are ignorant of the language of the country itself?—Hindostanee is not the language in which the proceedings are carried on; I do not mean that it is not the language of the country; if I understood Hindostanee only, and I could not read the papers in Mahratta, I could not possibly judge in such a case.

3850. Mr. *Hume.*] The Committee understand from you that Hindostanee is generally known by all classes, high and low?—By every class; it is the primitive language, and is spoken throughout India.

3851. What you alluded to are the particular languages in which the proceedings are carried on in the court?—Yes.

3852. And you say that the judges have not been sufficiently acquainted with those languages for the purpose of carrying on the proceedings of the courts?—That is so.

3853. *Chairman.*] Do you think it would be desirable to promote the native judges to the higher courts of justice?—I think they are competent to the discharge of their duty.

3854. Without the supervision of a European judge?—Yes.

3855. And without an appeal to a European judge?—All men are subject to errors, and another opinion might be required to see whether any particular man has gone right or wrong; there are appeal courts just the same as there are in this country, where the decisions of the lower courts are reversed or confirmed.

3856. Mr. *Hume.*] Have you sufficient confidence in the judgment and integrity of the natives to place them as judges in the higher tribunals?—Undoubtedly.

3857. Do you think the present system gives sufficient protection to the native judges to enable them to maintain their independence in the courts in which they are?—I do, so far as the duties of his office are concerned.

3858. Are you aware whether the native judges can be dismissed, in case of any complaint, without being tried?—Not to my knowledge; some of the moonsiffs have been tried, and have been dismissed.

3859. Are the Committee to understand that you think there is sufficient protection now given to the native judges in the administration of the duties which they have to perform in those courts?—I think so.

3860. They cannot be dismissed without having really committed errors which may be brought before the Government?—I do not myself know of a case in which it has been otherwise.

3861. Sir *G. Grey.*] Are you aware of any difference in the mode of dismissing a native judge and a European judge?—I think the native judges who are dismissed from the service are first sent to the magistrate upon the charge; if he thinks the case is proved he sends it to the sessions judge for trial.

3862. Sir *T. H. Maddock.*] You stated that you knew of a moonsiff having been tried: for what was he tried?—He was tried for corruption.

3863. Was he punished?—He was dismissed the service, and imprisoned also.

3864. Have you ever heard of any case besides that of a moonsiff being tried yourself?—I think I have not myself.

3865. Mr. *Hume.*] Have you ever known a native judge or public officer dismissed from office for alleged corruption or misconduct, without having had an opportunity of having his case inquired into before the Government tribunals?—I do not recollect any at present.

3866. *Chairman.*] Have you had any opportunities of observing how the magistrates

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magistrates perform that duty?—I think they do it satisfactorily, but I should wish to see some reformation in the procedure of the magistrates. The magistrate generally remains at the Sudder station for a certain period of the year, and at a certain time he goes on circuit. The police aumildars have no authority to try cases of minor offences. I can state some instances. If a crime is committed in any of the villages, the patell or officer of the police sends the case before the police aumildar, who takes the depositions of all persons connected with the case, and sends them to the cutcherry of the magistrate, in whatever part of the district he may be. Sometimes it happens that those witnesses are compelled to make a journey of five or six days, and that frequently happens at times which should be devoted to the collection of the harvest or seed sowing; so that they are averse to such a journey. Besides that, the allowance which is given to those persons is very trifling. They have about 3 *d.* a day subsistence money. They are detained sometimes 10, 15, or 20 days at the collector's cutcherry. If it be found that the magistrate makes out a case for committal, they are bound to appear before the sessions judge, and are obliged to undertake another journey. Thus they are kept out of their occupations. I apprehend that many cases of crime are not tried for want of evidence, and the objects of the law have thus been frustrated. I should recommend that in whatever part of the district a crime is committed the parties should be examined there by the police aumildar, and if he thinks that the case should be sent to the sessions judge, he should detain the prisoners connected with the case in the talookahs, and the judge should go on circuit to decide all such cases, as the judges here do.

3867. Would you recommend that the sessions judge should only occasionally leave his station, or that he should have fixed circuits?—That he should go round periodically.

3868. Would that involve much additional expense?—Not very much, I should think, when you compare the grievances and the frustration of the law which now take place.

3869. Except in the cold weather, would not it be very difficult for the sessions judge to make a circuit of that description?—I do not think so; because the collectors and magistrates and their assistants travel in their districts throughout the year, with the exception of three or four months of the rainy season, during which they remain at the Sudder station.

3870. Mr. *Hume*.] Are the Committee to understand that the delay, expense and trouble attendant upon sending witnesses from the talooks up to the head station, are much more serious considerations than the trouble of the judge going on circuit to the different places, and trying those cases?—I think it is.

3871. Your object in desiring those cases to be tried in the talooks, and places where the offences are committed, is to save the time and trouble of the parties and the witnesses?—Yes.

3872. You would prefer a local tribunal for offences of that kind?—Yes.

3873. Mr. *Elliot*.] What is, generally speaking, the extent of a magistrate's jurisdiction?—I should say about 80 or 90 miles.

3874. You say that the parties have to be sent to a great distance before they can get to a magistrate?—Yes.

3875. Supposing a magistrate to be on circuit at one end of his district, 80 miles in length, and to be detained there for three months, will not the distance to him be increased twofold from all the rest of his district?—I do not say that the magistrate should go. I recommend that the sessions judge should go on circuit to try the committed cases; assistant collectors and magistrates reside in their own talookahs, so that they can investigate the cases, and if they find a case for committal to the sessions judge, summarily send it or deal with it; even a case of a most trivial nature, the police aumildar now sends to the magistrate; suppose any person is found with a small quantity of spirit, the police aumildar is not authorised to adjudicate that case; he must send the man with the witnesses to the magistrate; and sometimes the man may be fined 2 or 3 *s.*, and the property is confiscated.

3876. You would not have all those petty cases kept for the sessions judge?—No, they should be disposed of summarily; power should be given to the local officers, the police aumildar, and the assistant magistrates to dispose of them.

3877. Mr. *Hume*.] What is the salary of the police aumildar to whom you would give that authority?—From 90 to 200 rupees; he is also a mamlutdar, and combines the duties of both revenue and police.

3878. Is

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3878. Is it your opinion that that officer should have the power of deciding summarily all such cases as he thinks can be so disposed of?—I do not think that cases of felony, or important cases, should be submitted to him, but minor cases I think should be.

3879. Mr. *Elliot.*] To what extent would you give him that jurisdiction?—I think that he should have the power to try such cases as are liable to fine or imprisonment for two months or six months.

3880. You would have a prison at every aumildar's cutcherry or station?—I think they have a prison.

3881. Mr. *Hume.*] Are you able to state whether that plan of having a summary jurisdiction in the different localities would give satisfaction to the natives generally?—I think it would.

3882. Sir *T. H. Maddock.*] In that case, would you allow persons who were punished to appeal to the sessions judge, when he came the circuit, against the proceedings of the aumildar?—If he exceeded his authority in any way, but not in the case of trivial offences. If a man has six months' imprisonment, and he thinks he is wrongly condemned, he might have his appeal.

3883. In case a man complained before this officer of an offence, and this officer did not punish the party against whom he complained, would you in that case allow him to appeal to a European judge?—I do not think it is necessary.

3884. Mr. *Hume.*] Do you mean to state that the present mode of administering justice, and settling those complaints to which you are now alluding, is objected to by the people?—It is.

3885. And it is to remove those objections that you think the system of local jurisdiction ought to be adopted?—Yes.

3886. Do those observations, with regard to the salaries of the native judges, apply to the case that you have last spoken of?—Yes.

3887. Mr. *Elliot.*] In important cases you would have the aumildar try the case in the first instance, and if it were a serious case and seemed to warrant a committal, he should commit the man till the sessions judge came round to try him?—Yes.

3888. But minor cases he would have jurisdiction to decide, and to punish the offender?—Yes.

3889. In that case, what business would go to the magistrate?—The magistrates would try other offences, such as cases of felony. In some cases the magistrate is authorised to award imprisonment for 12 months.

3890. I understand you to say that in all serious cases, the aumildar should commit the offender, and that he should be kept at the aumildar station till the sessions judge made his circuit; if that be so, what cases would you send to the magistrate?—Those cases which I think should be adjudicated by the aumildar are cases of common assault; the graver offences beyond those cases should be sent to the magistrate for his adjudication.

3891. Mr. *Hume.*] Do you think there would be any difficulty in rules being laid down, for the purpose of arranging the different classes of offences, which might be tried by the one court, or sent to other courts?—No.

3892. Previously to carrying out the plan, would you suggest a power of division or classification of the different offences, in order that each party might know before whom the decision would take place?—Yes.

3893. *Chairman.*] Is it your opinion that the Acts of the Legislative Council meet the wants of the people of India in general?—Not generally, I think, because the people have no voice in the Council in making the drafts of the Acts; the proceedings are carried on with closed doors; in some respects the Legislative Council have passed Acts against the customs and usages which the people have hitherto enjoyed, and against their rights, sacred and moral, which were guaranteed by the British Parliament. What is generally known in India by the name of the Missionary Act gives a great deal of offence to the natives, on account of their rights having been violated by its operation; that Act I believe interfered with the principle of their religion to a very great extent. When any member of the Hindoo community renounces his religion, he is considerd like a man that is dead, they perform his religious obsequies, and his family have no connection whatever with him; but by the above Act the ancestral property is forced to be given up to that person, which is against the law of their religion and country. If a peer of the realm in this kingdom abrogated his religion, and embraced the faith of a Mahomedan,

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Mahomedan, it would be a question whether he would be allowed to possess and enjoy the right and privilege which his ancestors had had.

3894. What means would you adopt to prevent laws passed by the Legislative Council, being contrary to the feelings and habits of the natives?—I think the opinions of the natives should be taken by the Legislature; I think before an Act was passed, there should be some means of giving publicity to it throughout India. I do not recollect the facts now, but I was told when I was last in Calcutta that many translations were published after the Act was actually passed; if I had a file of the Government Gazette I could find that out.

3895. What you would propose, would be that the laws which were intended to be issued, should be published and made known before they came into operation? —Yes, and that the parties should be heard by their counsel before the Legislative Council.

3896. Mr. *Elliot*.] Do your observations on the administration of justice in India, refer simply to the Bombay Presidency?—Yes.

APPENDIX.

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APPENDIX.

Appendix, No. 1.

Appendix, No. 1.

No. 1.—ACCOUNT of the Land Customs Revenue received in the North-Western Provinces in each of the Three Years preceding the coming into Operation of Act XIV. of 1843, and in each subsequent Year; together with a Statement of the Charges of the Land Customs Establishment on that Frontier in each Year.

—	LAND CUSTOMS REVENUE.			CHARGES.		
	From all Salt.	From other Articles.	TOTAL.	At Allahabad on Salt.	On other Salt, and other Articles.	TOTAL.
	Co.'s Rs.	*Co.'s Rs.*	*Co.'s Rs.*	*Co.'s Rs.*	*Co.'s Rs.*	*Co.'s Rs.*
Previously to the Operation of Act XIV. of 1843:						
1840–41 -	24,73,226	20,89,991	45,63,217	29,612	6,47,870	6,77,482
1841–42 -	27,10,953	19,39,363	46,50,316	29,131	6,32,152	6,61,283
1842–43 -	25,37,057	18,84,892	44,21,949	30,326	6,00,585	6,30,911
Subsequently to the Act:						
1843–44 -	36,17,623	15,73,266	51,90,889	31,156	5,94,933	6,26,089
1844–45 -	48,95,202	12,54,711	61,49,913	1,12,557	6,48,290	7,60,847
1845–46 -	38,66,750	15,20,474	53,87,224	91,554	6,06,955	6,98,509
1846–47 -	53,41,887	13,65,781	67,07,668	94,816	7,33,177	8,27,993
1847–48 -	49,27,887	13,02,137	62,30,024	1,01,678	8,05,469	9,07,147
1848–49 -	46,68,983	10,86,858	57,55,841	1,03,341	8,55,509	9,58,850
1849–50 -	54,82,097	13,33,682	68,15,779	1,02,287	7,83,278	8,85,565
1850–51 -	39,72,675	14,14,600	53,87,275	1,04,260	7,80,435	8,84,695

No. 2.—STATEMENT of the Number of Chests of Opium sold at each Sale, of the Average Price of each (Chest) kind, and of the Total Proceeds of each Sale, and of the Sales in each Year of *Behar* and *Benares* Opium, from the Month of January 1835 to the end of the Year 1851.

SALE.	NUMBER OF CHESTS OF OPIUM.			AVERAGES.		PROCEEDS OF EACH SALE.			General Average of each Sale per Chest.
	Behar.	Benares.	Total.	Behar.	Benares.	Behar.	Benares.	Total.	
1835:				*Co.'s Rs. a. p.*	*Co.'s Rs. a. p.*	*Co.'s Rs.*	*Co.'s Rs.*	*Co.'s Rs.*	*Co.'s Rs. a. p.*
First - -	3,500	1,500	5,000	1,055 14 2	1,045 9 11	36,95,600	15,68,427	52,64,027	1,052 12 11
Second -	1,500	500	2,000	1,228 8 6	1,154 15 9	18,42,800	5,77,493	24,20,293	1,210 2 4
Third - -	1,667	793	2,460	1,176 15 2	1,120 15 7	19,61,974	8,88,933	28,50,907	1,158 14 6
Fourth -	1,713	1,554	3,267	1,146 – 9	1,078 14 7	19,63,179	16,76,629	36,39,808	1,114 1 10
	8,380	4,347	12,727	- - -	- - -	94,63,553	47,11,482	1,41,75,035	—
1836:									
First - -	4,500	2,000	6,500	1,255 9 1	1,221 6 2	56,50,050	24,42,775	80,92,825	1,245 1 –
Second -	670	630	1,300	1,389 5 3	1,250 11 5	9,30,850	7,87,950	17,18,800	1,322 2 5
Third - -	1,325	1,150	2,475	1,310 7 6	1,206 9 –	17,36,375	13,87,550	31,23,925	1,262 3 1
Fourth -	2,901	1,568	4,469	1,361 14 11	1,227 9 9	39,50,960	19,24,890	58,75,850	1,314 12 10
	9,396	5,348	14,744	- - -	- - -	1,22,68,235	65,43,165	1,88,11,400	—
1837:									
First - -	4,970	1,993	6,963	1,612 7 3	1,459 2 8	80,13,900	29,08,325	1,09,22,225	1,568 9 8
Second -	1,500	990	2,490	1,591 13 7	1,442 13 3	23,87,775	14,28,400	38,16,175	1,532 9 7
Third - -	1,406	979 ½	2,385 ½	1,622 11 3	1,445 3 –	22,81,520	14,15,565	36,97,085	1,206 9 –
Fourth -	3,043	2,063	5,106	1,448 1 3	1,240 7 2	44,06,505	25,59,030	69,65,535	1,364 3 –
	10,919	6,025 ½	16,944 ½	- - -	- - -	1,70,89,700	83,11,320	2,54,01,020	—
1838:									
First - -	4,520	2,350	6,870	781 10 8	690 14 8	35,33,150	16,23,650	51,56,800	750 8 10
Second -	1,452	798	2,250	710 9 6	611 4 10	10,31,780	4,87,820	15,19,600	675 – 6
Third - -	2,480	1,500	3,980	681 7 5	534 7 2	16,90,025	8,01,675	24,91,700	626 – 11
Fourth -	1,375	600	1,975	702 9 4	552 2 –	9,66,050	3,31,275	12,97,325	656 13 11
Fifth - -	2,294	1,458	3,752	989 1 8	913 – 1	22,69,010	13,31,245	36,00,255	959 – 8
	12,121	6,706	18,827	- - -	- - -	94,90,015	45,75,665	1,40,65,680	—
1839:									
First - -	4,465	2,500	6,965	839 2 1 ½	732 7 – ½	37,46,725	18,31,100	55,77,825	800 13 4 ½
Second -	1,470	1,000	2,470	688 14 – ½	620 2 9 ½	10,12,650	6,20,175	16,32,825	661 1 –
Third - -	2,940	400	3,340	365 1 11	390 8 –	10,73,450	1,56,200	12,29,650	368 2 6 ½
Fourth -	1,430	980	2,410	235 6 8 ½	196 11 4	3,36,650	1,92,775	5,29,425	219 10 10 ½
Fifth - -	2,292	786	3,078	282 11 9 ½	303 12 6 ¾	6,48,035	2,38,775	8,86,810	288 1 9 ½
	12,597	5,666	18,263	- - -	- - -	68,17,510	30,39,025	98,56,535	—
1840:									
First - -	4,000	2,000	6,000	437 14 5	413 9 7	17,51,600	8,27,200	25,78,800	429 12 9
Second -	1,550	800	2,350	610 8 3	550 13 –	9,46,300	4,40,650	13,86,950	590 3 – ½
Third - -	2,500	2,000	4,500	539 10 3	503 11 11	13,49,100	9,83,380	23,32,480	518 5 3
Fourth -	1,300	700	2,000	643 15 4 ½	627 10 10 ¼	8,37,150	4,39,375	12,76,525	638 4 2 ½
Fifth - -	1,619	1,089	2,708	736 9 – ½	686 1 10 ¼	11,92,500	7,47,385	19,39,885	716 5 7 ¾
	10,969	6,589	17,558	- - -	- - -	60,76,650	34,37,990	95,14,640	—
1841:									
First - -	3,915	1,995	5,940	795 14 3 ½	698 11 4	31,39,800	13,93,925	45,33,725	763 4 – ¾
Second -	1,345	700	2,045	752 14 8 ½	666 14 3 ½	10,12,675	4,66,825	14,79,500	723 7 6 ½
Third - -	2,935	1,500	4,435	664 6 8 ¾	629 10 8	19,50,075	9,44,500	28,94,575	652 10 7 ¾
Fourth -	1,315	700	2,015	733 5 10	669 2 3 ½	9,64,375	4,68,400	14,32,775	711 – 10 ½
Fifth - -	2,805	1,287	4,092	683 7 7 ½	660 – 9	19,17,150	8,49,480	27,66,630	676 1 8 ½
	12,315	6,182	18,527	- - -	- - -	89,84,075	41,23,130	1,31,07,205	—

SALE.	NUMBER OF CHESTS OF OPIUM.			AVERAGES.		PROCEEDS OF EACH SALE.			General Average of each Sale per Chest.
	Behar.	Benares.	TOTAL.	Behar.	Benares.	Behar.	Benares.	TOTAL.	
1842:				Co.'s Rs. a. p.	Co.'s Rs. a. p.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs. a. p.
First - -	4,000	1,500	5,500	787 9 9½	764 7 2½	31,49,950	11,46,675	42,96,625	781 3 3¼
Second -	1,395	590	1,985	828 9 11	810 2 8½	11,55,925	4,78,000	16,33,925	823 2 2
Third - -	2,895	1,165	4,060	785 2 4	768 4 2¼	22,73,000	8,95,025	31,68,025	780 4 9¾
Fourth -	1,555	900	2,455	840 12 1	803 2 2½	13,07,375	7,22,825	20,30,200	826 15 5¼
Fifth - -	2,924	1,138	4,062	881 2 5½	838 15 7¼	25,76,490	9,54,755	35,31,245	869 5 4½
	12,769	5,293	18,062	- - -	- - -	1,04,62,740	41,97,280	1,46,60,020	—
1843:									
First - -	3,465	1,500	4,965	1,456 1 2¼	1,283 2 11	50,45,300	19,24,775	69,70,075	1,403 13 5½
Second -	1,090	700	1,790	1,306 9 3¾	1,129 4 –	14,24,175	7,90,475	22,14,650	1,237 3 9
Third - -	2,035	1,100	3,135	1,247 7 10½	1,137 – 8½	25,38,650	12,50,750	37,89,400	1,208 11 10
Fourth -	1,160	800	1,960	1,516 15 4½	1,360 7 6	17,59,675	10,88,375	28,48,050	1,453 1 4½
Fifth - -	1,585	1,369	2,954	1,446 2 8	1,295 14 1	22,92,175	17,74,060	40,66,235	1,376 8 3½
	9,335	5,469	14,804	- - -	- - -	1,30,59,975	68,28,435	1,98,88,410	—
1844:									
First - -	4,000	2,000	6,000	1,362 10 9½	1,230 11 2½	54,50,700	24,61,400	79,12,100	1,318 10 11
Second -	1,490	700	2,190	1,274 – 8¼	1,156 14 10¼	18,98,325	8,09,850	27,08,175	1,236 9 9
Third - -	2,890	1.300	4,190	1,275 3 5½	1,217 11 8¼	36,85,375	15,83,050	52,68,425	1,257 6 1
Fourth -	1,475	700	2,175	1,383 3 6¼	1,329 3 5	20,40,250	9,30,450	29,70,700	1,365 13 5
Fifth - -	2,389	1,106	3,495	1,520 2 10	1,459 9 –½	36,31,705	16,14,280	52,45,985	1,500 15 11¼
	12,244	5,806	18,050	- - -	- - -	1,67,06,355	73,99,030	2,41,05.385	—
1845:									
First - -	3,995	1,800	5,795	1,236 – 1¼	1,067 4 2⅔	49,37,850	19,21,075	68,58,925	1,183 9 5¾
Second -	1,800	850	2,650	1,253 1 9¼	1,143 10 9¾	22,55,600	9,72,125	32,27,725	1,218 – 1¾
Third - -	3,545	1,500	5,045	1,418 1 7¾	1,326 11 2¼	50,27,175	19,90,050	70,17,225	1,390 14 9¾
Fourth -	1,775	850	2,625	1,574 5 2	1,462 2 9¾	27,94,425	12,42,850	40,37,275	1,538 – 1¾
Fifth - -	3,384	1,638	5,022	1,472 13 4¾	1,372 10 11¾	49,84,085	22,48,460	72,32,545	1,440 2 9
	14,499	6,638	21,137	- - -	- - -	1,99,99,135	83,74,560	2,83,73,695	—
1846:									
First - -	4,435	1,970	6,405	1,282 4 5	1,179 3 –	56,86,900	23,23,000	80,09,900	1,250 9 1¾
Second -	2,165	795	2,960	1,476 3 4¾	1,326 10 1¾	31,96,000	10,54,675	42,50,675	1,436 – 7¼
Third - -	3,130	1,285	4,415	1,343 3 10½	1,219 1 11¾	42,04,350	15,66,575	57,70,925	1,307 1 10½
Fourth -	2,190	800	2,990	1,252 3 5	1,171 13 6	27,42,350	9,37,475	36,79,825	1,230 11 4¼
Fifth - -	3,416	1,552	4,968	1,106 – 1¼	1,055 15 4¾	37,78,120	16,38,855	54,16,975	1,090 5 11½
	15,336	6,402	21,738	- - -	- - -	1,96,07,720	75,20,580	2,71,28,300	—
1847:									
First - -	1,390	715	2,105	1,793 5 9¾	1,320 15 7¾	24,92,775	9,44,500	34,37,275	1,632 14 6¼
Second -	1,690	715	2,405	1,301 7 5	1,268 1 2¾	21,99,475	9,06,675	31,06,150	1,291 8 7¼
Third - -	1,690	715	2,405	1,188 14 11½	1,158 9 –¾	20,09,300	8,28,375	28,37,675	1,179 14 6
Fourth -	1,690	715	2,405	1,193 5 –	1,171 6 11	20,16,700	8,37,575	28,54,275	1,186 12 11¼
Fifth - -	1,690	715	2,405	1,223 6 8	1,180 13 5	20,67,575	8,44,300	29,11,875	1,210 12 1½
Sixth - -	1,690	715	2,405	1,209 2 3¼	1,160 15 7¾	20,43,450	8,30,100	28,73,550	1,194 13 2
Seventh -	1,690	715	2,405	1,256 7 10¾	1,217 7 8½	21,23,475	8,70,500	29,93,975	1,244 14 4
Eighth -	1,690	715	2,405	1,300 12 6½	1,253 6 9¾	21,98,325	8,96,200	30,94,525	1,286 11 3¼
Ninth - -	1,685	724	2,409	1,244 8 4¾	1,210 5 6¼	20,97,025	8,76,290	29,73,315	1,234 4 –½
	14,905	6,444	21,349	- - -	- - -	1,92,48,100	78,34,515	2,70,82,615	—
1848:									
First - -	1,830	780	2,610	1,019 11 4¾	963 9 11¼	18,66,075	7,51,625	26,17,700	1,002 15 2¼
Second -	1,825	780	2,605	961 1 9	912 9 –¼	17,54,025	7,11,800	24,65,825	946 9 2
Third - -	1,820	780	2,600	860 5 1½	816 8 1	15,65,775	6,36,875	22,02,650	847 2 9
Fourth -	1,815	775	2,590	811 14 2¼	778 – –	14,73,575	6,02,950	20,76,525	801 11 11¼
Fifth - -	1,800	775	2,575	782 12 2½	751 11 10¼	14,08,975	5,82,600	19,91,575	773 6 10
Sixth - -	1,790	775	2,565	755 4 8¼	726 12 4½	13,51.975	5,63,250	19,15.225	746 10 9¾
Seventh -	1,795	780	2,575	835 3 6¾	789 14 11½	14,99,225	6,16,150	21,15.375	821 8 ¾
Eighth -	1,805	775	2,580	867 14 9	827 3 7¼	15,66,600	6,41,100	22,07,700	855 11 1¾
Ninth - -	1,795	775	2,570	899 6 7½	864 7 8¾	16,14,450	6,69,975	22,84,425	888 14 1
Tenth - -	1,805	780	2,585	1,083 15 1¾	998 13 –¼	19.56.525	7,79,075	27,35,600	1,058 14 1¼
Eleventh -	1,805	780	2,585	949 8 10¾	864 15 5¼	17,13,950	6,74,675	23,88.625	924 – 6¼
Twelfth -	1,306	447	1,753	863 13 –	820 12 6¼	11,28,140	3,66,890	14,95.030	852 13 5¼
	21,191	9,002	30,193	- - -	- - -	1,88.99,290	75,96,965	2,64,96,255	—

(continued)

SALE.	NUMBER OF CHESTS OF OPIUM.			AVERAGES.		PROCEEDS OF EACH SALE.			General Average of each Sale per Chest.
	Behar.	Benares.	TOTAL.	Behar.	Benares.	Behar.	Benares.	TOTAL.	
				Co.'s Rs. a. p.	Co.'s Rs. a. p.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs. a. p.
1849:									
First - -	2,220	820	3,040	760 2 10½	734 3 3¾	16,87,600	6,02,050	22,89,650	753 2 9¼
Second -	2,220	820	3,040	812 10 4	804 4 9¼	18,04,075	6,59,525	24,63,600	810 6 3¾
Third - -	2,205	820	3,025	838 3 10½	828 2 2¾	18,48,325	6,79,075	25,27,400	835 8 -¾
Fourth -	2,200	820	3,020	937 14 2	943 11 6	20,63,350	7,73,850	28,37,200	939 7 6¼
Fifth - -	2,165	820	2,985	998 - 4¾	1,014 2 9¾	21,60,725	8,31,625	29,92,350	1,002 7 4¾
Sixth - -	2,150	815	2,965	1,052 5 6¾	1,024 3 8¾	22,62,550	8,34,750	30,97,300	1,044 9 11
Seventh -	2,170	820	2,990	1,060 12 8½	1,054 13 -¾	23,01,925	8,64,950	31,66,875	1,059 2 5¾
Eighth -	2,190	815	3,005	1,109 8 8¼	1,112 9 2½	24,29,900	9,06,750	33,36,650	1,110 5 10¼
Ninth - -	2,181	820	3,005	1,059 9 -½	1,054 5 3	23,15,150	8,64,550	31,79,700	1,058 2 2
Tenth - -	2,205	820	3,025	937 15 1½	981 14 8¾	21,47,550	8,05,175	29,52,725	976 1 8½
Eleventh -	2,220	820	3,040	1,005 5 2½	1,006 - 7	22,31,825	8,24,950	30,56,775	1,005 8 3¼
Twelfth -	2,207	812	3,019	1,009 - 4½	1,001 7 10	22,26,915	8,13,210	30,40,125	1,006 15 11¼
	26,337	9,822	36,159	- - -	- - -	2,54,79,890	94,60,460	3,49,40,350	—
1850:									
First - -	2,070	865	2,935	921 7 2¼	940 7 4¾	19,07,400	8,13,500	27,20,900	927 - 10
Second -	2,055	855	2,910	1,054 6 3	1,056 1 9¼	21,66,775	9,02,975	30,69,750	1,054 14 4
Third - -	1,990	865	2,855	1,018 12 3½	1,017 5 11	20,27,350	8,80,025	29,07,375	1,018 5 6
Fourth -	2,035	865	2,900	1,008 11 11¼	1,026 10 9¾	20,52,800	8,88,075	29,40,875	1,014 1 6
Fifth - -	2,025	865	2,890	1,044 5 4	1,053 - 6½	21,14,775	9,10,875	30,25,650	1,046 15 -
Sixth - -	2,065	865	2,930	1,011 14 2½	1,015 12 5¾	20,89,550	8,78,650	29,68,200	1,013 - 7
Seventh -	2,070	865	2,935	986 13 4¼	979 9 6¼	20,42,750	8,47,350	28,90,100	984 11 2¾
Eighth -	2,080	865	2,945	1,011 1 8¼	1,001 13 7	20,82,300	8,66,600	29,48,900	1,001 5 2¼
Ninth - -	2,085	865	2,950	1,021 3 11¼	1,029 4 10¾	21,29,300	8,90,350	30,19,650	1,023 9 9
Tenth - -	2,085	865	2,950	992 7 3¾	997 13 3¾	20,69,275	8,63,125	29,32,400	994 - 6½
Eleventh -	2,085	865	2,950	987 4 10	1,007 14 2¾	20,58,525	8,71,825	29,30,350	993 5 5
Twelfth -	2,064	869	2,933	942 9 3¼	955 14 10¾	19,45,485	8,30,705	27,76,190	946 8 6¼
	24,709	10,374	35,083	- - -	- - -	2,46,86,285	1,04,44,055	3,51,30,340	—
1851:									
First - -	1,980	890	2,870	979 10 6½	972 12 11¼	19,39,725	8,65,800	28,05,525	977 8 6½
Second -	1,965	890	2,855	924 - 11	909 13 3½	18,15,775	8,09,750	26,25,525	919 9 11½
Third - -	1,945	890	2,835	873 3 9¾	861 4 2½	16,98,450	7,66,525	24,64,975	869 7 8
Fourth -	1,895	890	2,785	901 13 2½	881 3 3¾	17,12,750	7,84,275	24,97,025	896 9 6¾
Fifth - -	1,925	885	2,810	912 13 1	871 2 -¾	17,57,175	7,70,950	25,28,125	899 11 -
Sixth - -	1,975	890	2,865	925 1 7¼	878 9 11½	18,27,075	7,81,975	26,09,050	910 10 7¼
Seventh -	1,960	890	2,850	939 13 11½	900 - -	18,42,150	8,01,000	26,43,150	927 6 8¾
Eighth -	1,980	890	2,870	954 - 2¾	910 8 1	18,88,950	8,10,350	26,49,300	940 8 4¼
Ninth - -	1,945	885	2,830	1,005 14 4¾	957 14 6½	19,56,475	8,47,750	28,04,225	990 14 3¼
Tenth - -	1,950	890	2,840	916 1 -¼	919 7 5½	18,81,875	8,18,325	27,00,200	950 12 4½
Eleventh -	1,975	885	2,860	987 - 2¼	934 14 2¼	19,49,350	8,27,375	27,76,725	970 14 1½
Twelfth -	1,974	865	2,839	1,011 4 7	961 - 7¾	19,96,280	8,31,300	28,27,580	995 15 7½
	23,469	10,640	34,109	- - -	- - -	2,22,66,030	97,15,375	3,19,81,405	—

In 1837 there was a fifth sale; a resale of cancelled lots and of opium originally reserved for the French Government.

No. 3.—STATEMENT of the TOTAL PROCEEDS of the SALES in each Year of *Behar* and *Benares* OPIUM, from the Month of January 1835 to the end of the Year 1851 (including the Sales to the French Government, or Adjustments resulting out of those Sales). Appendix, No. 1.

SALES OF	Opium of Season	Chests Sold.	Proceeds.	Averages. Per Chest.		
			Co.'s Rupees.	*Co.'s. Rs.*	*a.*	*p.*
1835 - - - -	1833-34 -	13,027	1,45,17,204	1,114	6	3 ½
1836 - - - -	1834-35 -	15,044	1,92,11,835	1,277	–	8 ¼
1837 - - - -	1835-36 -	17,244 ½	2,58,51,386	1,499	1	9
1838 - - - -	1836-37 -	19,133	1,42,98,118	747	4	10
1839 - - - -	1837-38 -	18,563	99,56,529	536	5	10
1840 - - - -	1838-39 -	17,858	97,14,611	543	15	10 ½
1841 - - - -	1839-40 -	18,827	1,33,18,549	707	6	8
1842 - - - -	1840-41 -	18,362	1,49,06,576	811	13	– ¾
1843 - - - -	1841-42 -	15,104	2,03,02,996	1,344	3	4 ¾
1844 - - - -	1842-43 -	18,350	2,45,28,666	1,336	11	4 ½
1845 - - - -	1843-44 -	21,437	2,87,94,545	1,343	3	5 ½
1846 - - - -	1844-45 -	22,038	2,74,93,343	1,247	8	8
1847 - - - -	1845-46 -	21,649	2,74,68,190	1,268	12	9
1848 - - - -	1846-47 -	30,493	2,67,44,636	877	1	2 ¼
1849 - - - -	1847-48 -	36,459	3,52,45,838	966	11	7 ¼
1850 - - - -	1848-49 -	35,383	3,54,32,079	1,001	6	2 ¼
1851 - - - -	1849-50 -	34,409	3,22,50,639	937	4	4 ¼

No. 4.—STATEMENT of the TOTAL SUM Received for OPIUM PASSES in each Year from 1834 to 1851, and of the RATE at which such Passes have been Sold in each Year; showing also the Authority by which such Rate was fixed.

YEAR.	Total Sum Received for Opium Passes.	Rate.	Authority.
	Rupees.	*Rs.*	
1834-35 - - -	12,20,975	175 per chest - -	The Government of Bombay, in communication with the Supreme Government.
1835-36 - - -	16,96,000	125 per chest - -	
1836-37 - - -	25,01,875	- - ditto - -	
1837-38 - - -	15,03,625	- - ditto - -	
1838-39 - - -	24,68,125	- - ditto - -	
1839-40 - - -	2,68,875	- - ditto - -	
1840-41 - - -	21,19,125	- - ditto - -	
1841-42 - - -	18,35,125	- - ditto - -	
1842-43 - - -	30,42,125	200 per chest - -	
1843-44 - - -	27,12,600	- - ditto - -	
1844-45 - - -	61,45,600	- - ditto - -	
1845-46 - - -	37,90,500	300 per chest - -	
1846-47 - - -	55,80,600	- - ditto - -	
1847-48 - - -	61,94,000	400 per chest - -	
1848-49 - - -	66,03,600	- - ditto - -	
1849-50 - - -	61,44,000	- - ditto - -	
1850-51 - - -	94,44,000	- - ditto - -	

Appendix, No. 1.

No. 5.—STATEMENT of CHARGES in each Year in regard to OPIUM Sold, and to OPIUM PASSES.

	Bengal Presidency. On Opium Sold (including cost). (Behar and Benares.)	Bombay Presidency. On Opium Passes. (Malwah.)
	Co.'s Rs.	Co.'s Rs.
1835–36 - - - - - - -	48,21,765	2,00,367
1836–37 - - - - - - -	54,95,995	6,69,757
1837–38 - - - - - - -	65,97,949	3,49,456
1838–39 - - - - - - -	66,92,188	2,05,247
1839–40 - - - - - - -	43,85,095	79,797
1840–41 - - - - - - -	54,82,272	79,947
1841–42 - - - - - - -	57,32,888	75,738
1842–43 - - - - - - -	50,56,520	54,627
1843–44 - - - - - - -	60,68,310	71,090
1844–45 - - - - - - -	66,13,011	61,973
1845–46 - - - - - - -	75,22,613	2,23,910
1846–47 - - - - - - -	78,80,265	39,790
1847–48 - - - - - - -	1,06,45,725	71,727
1848–49 - - - - - - -	1,05,67,427	1,05,860
1849–50 - - - - - - -	95,64,263	1,05,482
1850–51 - - - - - - -	1,03,47,259	1,02,262

No. 6.—STATEMENT of the TOTAL REVENUE derived from SALT at each Presidency in each Year from 1834 to 1851, showing the Gross Receipts and Charges, and distinguishing the several Sources from which such Revenue has been derived: whether from Sales or from Sea or Land Customs; showing, also, the several Rates of Duty levied at different Periods and Places, and the several Prices fixed for the Sale of Salt at different Places.

BENGAL PRESIDENCY.

YEARS.	SALES.	EXCISE.	Sea Customs.	TOTAL.	Charges.	Rates of Duty, &c.
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	
1834–35 - -	1,79,45,433	- -	No imports	1,79,45,433	74,83,122	By Regulation XV. of 1825, the sea import duty was 3 sicca rupees per maund, of 82 sicca weight, or tolas, to the seer, if on a British, and 6 rupees per maund if on a foreign bottom. Act XIV. of 1836, fixed the duty at 3/4 rupees per maund of 80 tolas to the seer, whether on a British or foreign bottom, from the 1st June 1836. On the 11th November 1841 it was reduced to 3 rupees per maund; on the 1st April 1847, to 2 rupees 12 annas per maund; and on the 1st April 1849, to 2 rupees 8 annas per maund.
1835–36 - -	1,76,60,395	- -	No imports	1,76,60,395	51,63,180	
1836–37 - -	1,50,03,860	- -	11,52,203	1,61,56,063	54,80,217	
1837–38 - -	1,73,03,850	- -	10,30,640	1,83,34,490	53,21,907	
1838–39 - -	2,15,90,373	- -	6,44,598	2,22,34,971	39,43,070	
1839–40 - -	1,88,62,180	- -	13,34,452	2,01,96,632	40,09,451	
1840–41 - -	1,92.36,567	- -	17,13,381	2,09,49,951	44,39,792	
1841–42 - -	1,92,51,092	- -	18,45,120	2,10,96,212	52,23,054	
1842–43 - -	1,86,83,043	- -	26,51,540	2,13,34,583	49,31,034	
1843–44 - -	1,84,76,471	- -	28,80,356	2,13,56,827	57,81,686	
1844–45 - -	1,88,62,834	- -	27,14,888	2,15,77,722	55,41,141	
1845–46 - -	1,53,17,711	- -	41,31,058	1,97,48,769	48,45,246	
1846–47 - -	1,64,10,018	- -	39,25,544	2,03,65,562	41,58,685	
1847–48 - -	1,58,72,680	- -	41,36,911	2,00,09,591	35,08,707	
1848–49 - -	1,34,26,790	45,237	39,90,083	1,74,62,110	31,76,146	
1849–50 - -	1,33,50,915	59,075	47,85,545	1,81,95,535	31,13,680	
1850–51 - -	1,08,88,495	87,500	59,86,905	1,69,62,900	33,29,260	

PRICES

BENGAL PRESIDENCY—*continued.*

PRICES fixed for the Sale of Salt at different Places

The selling price of salt at the Government Golahs is determined yearly, and the last adjustment is as follows: the price in each instance being equal to the duty of *Rs.* 2. 8. per maund, added to the cost of production, calculated on an average of three years; viz.—

	Price per 100 Maunds.
	Rs.
Hidgelee Pungah at the Agency Ghauts	316
Ditto - ditto at Sulkea	326
Tumlook - ditto	318
24 Pergunnahs - ditto at Sulkea	357
Chittagong - ditto	326
Arrakan - ditto at Kyook Phyoo	302
Ditto - ditto at Chittagong	330
Cuttack - ditto at Sulkea	338
Balasore - ditto at ditto	325
Khurdah and Chilka ditto at ditto	335
Madras Kurkutch at ditto	308

From 1st May 1852, per notification, dated 30th April 1852.

NORTH-WESTERN PROVINCES.

YEARS.	Land Customs.	Charges.*	Rates of Duty, &c.
	Co.'s Rs.	*Co.'s Rs.*	
1834–35	21,28,048	4,83,179	Up to Act XIV, of 1843, which came into operation on the 1st September 1843, all salt was taxed at one rupee per maund, an additional duty of eight annas per maund on Lahoree, Sumbhur and Doodwana salt having been remitted by the Government on the 1st July 1835. Act XIV, of 1843, imposed a duty of two rupees per maund on crossing the frontier, and a further duty of one rupee per maund on passing eastward of Allahabad. This Allahabad special duty was reduced to 12 annas per maund in July 1847, and to eight annas per maund from the 1st April 1849. By Act XVI, of 1848, no duty is leviable on salt imported into the North-Western Provinces from other provinces of the Bengal Presidency.
1835–36	22,90,977	6,92,568	
1836–37	20,88,753	7,32,088	
1837–38	18,70,667	7,03,865	
1838–39	30,80,623	6,76,970	
1839–40	27,19,769	6,80,785	
1840–41	24,73,226	6,77,482	
1841–42	27,10,953	6,61,283	
1842–43	25,37,057	6,30,911	
1843–44	36,17,623	6,26,089	
1844–45	48,95,202	7,60,847	
1845–46	38,66,750	6,98,509	
1846–47	53,41,887	8,27,993	
1847–48	49,27,887	9,07,147	
1848–49	46,68,983	9,58,850	
1849–50	54,82,097	8,85,565	
1850–51	39,72,675	8,84,695	

* These sums are the amount of charges on the Customs of all kinds in the North-Western Provinces; a previous Statement shows the only portion of Salt Charges separable from the other, viz., those at Allahabad for the collection of the Special Duty.

Appendix. No. 1.

FORT ST. GEORGE.

YEARS.	Sales.	Charges.	Rates of Duty, &c.
	Co.'s Rs.	Co.'s Rs.	
1834-35 -	40,08,743	6,91,970	The monopoly price in 1834-35 (Fusly 1244) was 105 rupees per garee of 120 maunds, about 15 annas per Indian maund; the cost of production being about 12 rupees per garee. By Act VI, of 1844, the monopoly price was raised to 1 rupee 8 annas per maund (180 rupees per garee). But under orders of the Court of Directors, published in the Fort St. George Gazette, of 16th August 1844, it was reduced to one rupee per maund, or 120 rupees per garee. The sea import duty (under Act VI, of 1844) is three rupees per maund, except on salt imported from Arabia into Malabar and Canara, on which it has been reduced from three rupees to 12 annas per maund. Salt by land from Goa pays also 12 annas per maund.
1835-36 -	37,68,372	6,36,066	
1836-37 -	37,28,946	7,70,444	
1837-38 -	37,92,073	5,17,995	
1838-39 -	40,29,534	5,62,841	
1839-40 -	39,88,580	6,06,158	
1840-41 -	37,80,520	7,58,715	
1841-42 -	39,92,395	6,30,589	
1842-43 -	39,97,619	7,86,660	
1843-44 -	43,21,604	5,85,960	
1844-45 -	45,25,604	7,44,235	
1845-46 -	47,06,411	6,72,391	
1846-47 -	45,56,353	5,72,165	
1847-48 -	48,57,218	6,62,363	
1848-49 -	45,07,977	7,38,537	
1849-50 -	46,45,926	8,12,614	
1850-51 -	47,76,305	6,81,082	

BOMBAY.

YEARS.	Excise.	Charges.	Rates of Duty, &c.
	Co.'s Rs.	Co.'s Rs.	
1834-35 - -	2,32,197	Not separable -	By Act XXVII, of 1837, from 15th December 1837, an excise duty of eight annas per maund was levied on salt. By Act XVI, of 1844, this was raised to one rupee per maund, and an import duty of eight annas per maund, levied under Act I, of 1838, was raised to one rupee. But under orders of the Court of Directors, publicly notified on the 16th September 1844, the excise and import duty were both reduced to twelve annas per maund.
1835-36 - -	2,57,517		
1836-37 - -	2,35,242	26,710	
1837-38 - -	1,45,064	14,100	
1838-39 - -	12,57,719	1,00,041	
1839-40 - -	13,96,933	1,24,724	
1840-41 - -	15,90,854	1,32,636	
1841-42 - -	15,01,731	1,59,130	
1842-43 - -	16,83,005	1,57,666	
1843-44 - -	18,60,563	1,60,984	
1844-45 - -	20,03,929	1,56,427	
1845-46 - -	22,61,840	1,60,731	
1846-47 - -	19,30,219	1,52,654	
1847-48 - -	25,27,611	1,82,605	
1848-49 - -	22,81,922	1,75,067	
1849-50 - -	23,24,871	1,67,280	
1850-51 - -	23,55,784	1,76,064	

No. 7.

Appendix, No. 1.

No. 7.—STATEMENT of the ANNUAL JUMMA of LANDS sold in each of the last Ten Years, on Account of ARREARS of REVENUE; the Amount of such Arrears; the Total Sum produced by such Sales, and the Number of Cases in which such Sales have taken place, as far as the same can be ascertained.

YEARS.	Annual Jumma of Lands sold for Arrears of Revenue.	Amount of such Arrears.	Total Sum produced by such Sales.	Number of Cases in which such Sales have taken place.
BENGAL:	*Co.'s Rs.*	*Co.'s Rs.*	*Co.'s Rs.*	Portions.
1841-42 - - - -	2,86,103	1,79,965	9,80,772	764·54
1842-43 - - - -	2,70,949	Not stated -	10,81,776	769·44
1843-44 - - - -	1,81,493	- „ -	11,04,215	958·41
1844-45 - - - -	1,54,779	- „ -	6,74,649	659·38
1845-46 - - - -	2,13,542	- „ -	7,11,286	749·18
1846-47 - - - -	1,66,950	80,892	13,15,716	1,479
1847-48 - - - -	3,24,152	1,80,810	13,29,056	1,238
1848-49 - - - -	3,27,939	1,51,646	11,57,808	1,165
1849-50 - - - -	2,36,995	92,399	12,71,726	1,515
1850-51 - - - -	5,84,044	3,72,665	9,56,139	1,272
NORTH-WESTERN PROVINCES:				
1841-42 - - - -	1,28,563	98,988	Not stated -	104
1842-43 - - - -	2,06,141	1,92,961	- „ -	226
1843-44 - - - -	1,26,717	1,42,211	- „ -	221
1844-45 - - - -	1,14,505	97,190	- „ -	121
1845-46 - - - -	70,745	45,662	- „ -	97
1846-47 - - - -	93,602	86,264	- „ -	115
1847-48 - - - -	55,247	23,363	- „ -	52
1848-49 - - - -	81,072	36,845	29,983	81
1849-50 - - - -	91,082	42,586	46,929	74
1850-51 - - - -	79,589	39,765	Not stated -	69
FORT ST. GEORGE:				
1841-42 - - - -	45,626	92,409	57,760	7
1842-43 - - - -	9,691	7,409	6,050	4
1843-44 - - - -	1,68,744	5,78,007	3,73,887	7
1844-45 - - - -	2,28,666	5,17,459	4,31,566	25
1845-46 - - - -	58,010	3,82,100	2,00,660	8
1846-47 - - - -	2,25,708	11,42,261	1,75,700	12
1847-48 - - - -	1,69,435	8,16,329	1,69,435	6
1848-49 - - - -	6,100	53,001	3,000	4
1849-50 - - - -	9,778	6,643	13,225	5
1850-51 - - - -	2,814	2,554	5,200	1
1851-52 - - - -	2,30,289	1,50,524	1,80,600	6
BOMBAY - - -	No Returns.			

T. L. Peacock,
Examiner of India Correspondence.

East India House,
14 February 1853.

JAMES C. MELVILL.

Appendix, No. 2.

RETURN of the Number of War Steamers, not Vessels of the Regular Indian Navy, belonging to and under the *Bengal* Government, in each of the last Ten Years, viz., the "Phlegethon," "Pluto," "Nemesis," and "Proserpine," and other Vessels, stating the Size and Equipment of each Vessel, and the Charge for the same in each Year, distinguishing the Cost of Hull and Rigging, and the Victualling, and the Charge for Pay and Allowances in each Ship, in each Year, stating how Paid and Charged in the Accounts of the *Bengal* Presidency.

No. 1.—RETURN of the Sea Steamers belonging to the Presidency of *Bengal*, for 1841–42.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging.		Annual Cost of Establishment.	All other Charges.	TOTAL.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
					£. s. d.	*Rs.* *a.* *p.*	*Rs.* *a.* *p.*	*Rs.* *a.* *p.*	*Rs.* *a.* *p.*			
1. Queen - -	- - Two 68-pounders on circles, one forward and one aft; four 34-pounders broadside guns.	769	220	1839	44,409 17 11	4,44,098 15 4	52,164 - -	47,026 6 11	99,090 6 11	- - China special service.	With the expedition in China.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishments, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Tenasserim -	- - Two 68-pounders on circles, bow and stern; four 34-pounders broadside guns.	769	220	1841	39,884 12 3	3,98,846 1 11	61,040 - -	- - Not traceable, owing to defective records in this office.		- ditto - -	- - Built in 1841, and sent to China as soon as fitted out in February 1842.	
3. Enterprise -	- - Two 12-pounders on circles, one forward and one aft; two 18-pounders broadside guns.	513	120	1838	25,360 7 3	2,53,603 10 3	34,308 - -	17,768 15 3½	32,076 15 3½	- External steam navigation.	- - Calcutta, having returned from the China expedition in February 1841.	
4. Ganges -	- - Two 24-pounders howitzers; four 12-pounders broadside guns.	305	80	1827	24,181 18 -	2,41,819 - -	22,322 - -	22,059 4 7	44,381 4 7	- ditto - -	Calcutta.	
5. Irrawaddy -	- - Two 24-pounders howitzers; two long 6-pounders and two 3-pounders rocket tube.	300	80	1841	17,350 6 -	1,73,503 - -	804 - -	887 5 9	1,691 5 9	- ditto - -	Built in the end of 1842.	
6. Diana - -	Two 9-pounders on circles	168	50	1836	7,600 - -	76,000 - -	18,516 - -	- - No audit in the books beyond a sum of	1,303 -	Government of India.	Straits of Malacca.	
7. Hooghly - -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 -	1,16,138 - -	45,888 - -	10,766 14 10	56,654 14 10	- - China special service.	- - With the expedition in China from June 1842.	
8. Phlegethon -	- - Two 32-pounders on circles.	500	110	1841	24,287 16 4	2,42,878 2 8	44,552 - -	- - No adjustment, excepting a small sum of -	340 8 1	- ditto - -	- ditto.	
9. Prosperine -	Two 24-pounders howitzers	400	100	1841	23,556 13 9	2,35,566 14 -	44,972 - -	3,301 6 6	48,273 6 6	- External steam navigation.	- - Built this year, and fitted out in England.	
10. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	31,140 - -	- - No adjustment, excepting a sum of	239 3 10	- - China special service.	With the expedition in China.	
11. Pluto - -	- - Four brass 6-pounders and one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	31,380 - -	Accounts not adjusted - -		- ditto - -	- - ditto.	
12. Madagascar -	- - - - -	- -	- -	- -	20,000 - -	2,00,000 - -	33,924 - -	- - This vessel was purchased by Government expressly for the expedition to China. Being fitted out and equipped with all practicable speed, she joined the expedition in April 1840, but returned here for repairs, and was again dispatched in August 1841, but on the 19th September following she was burnt by fire in a typhoon in the China seas.				

Fort William, Marine Superintendent's Office, 4 September 1852.

(signed) *H. Howe*, Secretary to Superintendent of Marine.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging.		Annual Cost of Establishment.	All other Charges.	TOTAL.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
					£. s. d.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.			
1. Queen - -	- - Two 68-pounders on circles, one forward and one aft; four 34-pounders broadside guns.	769	220	1839	44,409 17 11	4,44,098 15 4	42,160 - -	- - No adjustment, excepting a sum of	9,505 6 11	China special service, while in China, and the rest external steam navigation.	- - With the expedition in China till January 1843.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Tenasserim -	- - ditto - - -	769	220	1841	39,884 12 3	3,98,846 1 11	61,040 - -	- - No adjustment, excepting a total sum of -	12,830 - 1	- - ditto -	- - Dispatched for the expedition in Chinese expedition in February 1842, and left China in October following.	
3. Enterprise -	- - Two 12-pounders on circles, one forward and one aft; two 18-pounders broadside guns.	513	120	1838	25,360 7 3	2,53,603 10 3	32,112 - -	26,032 9 5	58,144 9 5	- - External steam navigation.	Calcutta.	
4. Ganges -	-- Two 24-pounders howitzers; four 12-pounders broadside guns.	305	80	1827	24,181 18 -	2,41,819 - -	28,740 - -	15,810 14 2	44,550 14 2	- - ditto -	Calcutta.	
5. Irrawaddy -	-- Two 24-pounders howitzers; two long 6-pounders; and two 3-pounders, and one 6-pounder rocket tube.	300	80	1841	17,350 6 -	1,73,503 - -	804 - -	235 9 10	1,039 9 10	- - ditto -	Calcutta, unemployed.	
6. Diana - -	Two 9-pounders on circles	168	50	1836	7,600 - -	76,000 - -	19,260 - -	- - No adjustment, with the exception of a sum of	280 13 8	- - Government of India.	Straits of Malacca.	
7. Hooghly -	- - Two long 9-pounders on circles; four long 3-pounders on slides; six wall pieces.	193	50	1841	11,613 16 -	1,16,138 - -	45,888 - -	- - No adjustment, with the exception of a small sum of	787 2 8	China special service, while in China, the rest external steam navigation.	- - With the expedition in China till December 1842; and in February and March 1843 in Tenasserim provinces.	
8. Phlegethon -	- - Two 32-pounders on circles.	500	110	1841	24,287 16 4	2,42,878 2 8	44,552 - -	Accounts not adjusted -	-	- - China special service.	In China.	
9. Proserpine -	-- Two 24-pounders howitzers.	400	100	1841	23,556 13 9	2,35,566 14 -	44,972 - -	3,593 - 9	48,563 - 9	- - ditto -	- - Joined the China expedition in May 1842.	
10. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	31,140 - -	18,829 1 5	49,969 1 5	- - ditto -	In China till February 1843.	
11. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	31,380 - -	Accounts not adjusted -	-	- - ditto -	In China till January 1843.	

Fort William, Marine Superintendent's Office,
4 September 1852.

(signed) *H. Howe*,
Secretary to Superintendent of Marine.

No. 3.—RETURN of the SEA STEAMERS belonging to the Presidency of *Bengal*, for 1843-44.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging.		Annual Cost of Establishment.	All other Charges.	TOTAL.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
					£. s. d.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.			
1. Queen - -	- - Two 68-pounders on circles, one forward and one aft; four 34-pounders broadside guns.	769	220	1839	44,409 7 11	4,44,098 15 4	24,611 9 9	23,546 10 9	48,158 4 6	- External steam navigation.	- - The greater part of 1843 at Calcutta; went to Arracan in January, and proceeded to Bombay in November 1844, having been transferred to the Bombay Government at that date.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Tenasserim -	- - ditto - - -	769	220	1841	39,884 12 3	3,98,846 1 11	32,108 3 3	22,034 2 10	54,142 6 3	- ditto - -	- - The first half of 1843 employed on an experimental trip to Suez, and the end of the year engaged to cruise with invalids at the Sandheads.	
3. Enterprise -	- - Two 12-pounders on circles, one forward and one aft; two 18-pounders broadside guns.	513	120	1838	25,360 7 3	2,53,603 10 3	29,905 11 11	21,206 6 3	51,112 2 2	- ditto - -	Calcutta.	
4. Ganges -	- Two 24-pounders howitzers; four 12-pounders broadside guns.	305	80	1827	24,181 18 –	2,41,819 – –	34,131 8 5	12,666 2 3	46,797 10 8	- ditto - -	- - Employed partly in Calcutta, and partly on the Arracan coast.	
5. Irrawaddy -	- Two 24-pounders howitzers, two long 6-pounders, and two 3-pounders, and one 6-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,503 – –	23,169 6 4	7,677 15 4	30,847 5 8	- ditto - -	Calcutta.	
6. Diana - -	Two 9-pounders on circles	168	50	1836	7,600 – –	76,000 – –	- No adjustment, excepting a trifling sum -			- Government of India.	Straits of Malacca.	
7. Hooghly -	- - Two long 9-pounders on circles; four 3-pounders on slides; six wall pieces.	193	50	1841	11,613 16 –	1,16,138 – –	18,298 5 6	6,273 15 –	25,572 4 6	- External steam navigation.	Calcutta.	
8. Phlegethon -	Two 32-pounders on circles	500	110	1841	24,287 16 4	2,42,878 2 8	15,709 7 –	5,096 – 6	20,805 7 6	- - China, special service while in China; the rest external steam navigation.	- - Returned from China in June 1843, and underwent heavy repairs.	
9. Proserpine -	Two 24-pounders howitzers	400	100	1841	23,556 13 9	2,35,566 14 –	44,972 – –	- Adjustment not made, excepting a sum of - -	982 10 7	China, special service, and Her Majesty's Government, Hong Kong.*	China.	
10. Nemesis -	Two 32-pounders on circles	660	120	1840	28,942 14 4	2,89,427 2 8	41,140 – –	- Adjustment not made, excepting a sum of - -	1,738 13 2	External steam navigation.	Bombay.	
11. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circle.	450	90	1841	40,314 11 4	4,03,145 10 8	33,180 – –	- Adjustment not made, excepting a sum of - -	1,839 5 2	- ditto - -	Bombay.	

* From September 1843, the debit of "China Special Service," was changed to that of "Her Majesty's Colonial Government, Hong Kong."

Fort William, Marine Superintendent's Office, (signed) H. Howe

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging.		Annual Cost of Establishment.	All Other Charges.	TOTAL.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
					£. s. d.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.			
1. Tenasserim -	- - Two 68-pounders on circles, one forward and one aft; two 34-pounders broadside guns.	769	220	1841	39,884 12 3	3,98,846 1 11	41,668 1 10	55,404 5 10	97,072 7 8	- External steam navigation.	- - Calcutta, but employed during part of the year on a trip to Suez; the remaining period on the Calcutta station.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorized establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18-pounders broadside guns.	513	120	1838	25,360 7 3	2,53,603 10 3	33,310 15 8	32,836 15 10¾	66,157 15 6¾	- ditto - -	- - The first half of 1844 at Moulmein, the remainder in Calcutta. with the exception of a trip to Bombay.	
3. Ganges -	- - One 24-pounder howitzer; two 12-pounders broadside guns.	305	80	1827	24,181 18 –	2,41,819 – –	21,041 10 9	13,997 14 8	35,039 9 5	- ditto - -	- - In Calcutta till August, when she proceeded to Moulmein, and returned in November, and proceeded on the 10th December to Chittagong, Akyab, and Moulmein.	
4. Irrawaddy -	- - Two 24-pounders howitzers, two long 6-pounders, two 3-pounders, and one 6-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,503 – –	14,540 3 1	17,812 12 2½	32,352 15 3½	- ditto - -	Calcutta station.	
5. Diana - -	- - Two 9-pounders on circles; four 3 pounders.	168	50	1836	7,600 – –	76,000 – –	19,870 11 6	7,905 14 4	27,776 9 10	- Government of India.	Straits of Malacca.	
6. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	12,183 6 5	2,771 15 3	14,955 5 8	- Government of India while in the Straits; the rest external steam navigation.	- - Straits of Malacca for the first half of the year, returned to Calcutta, and was laid up.	
7. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders, brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	36,439 14 11	18,593 2 5	55,033 1 4	- External steam navigation.	- - In Calcutta till the 24th April, when she left for the Straits.	
8. Proserpine -	- - Two 24-pounders howitzers.	400	100	1841	23,556 13 9	2,35,566 14 –	44,972 – –	10,053 14 7½	55,025 14 7½	- - Her Majesty's Colonial Government, Hong Kong.	- - China; but returned to Calcutta for repairs in April 1845.	
9. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	11,388 10 1	25,447 6 5¾	36,836 – 6¾	- External steam navigation.	- - Sent to Bombay, and returned to Calcutta on the 27th December 1844; remained in Calcutta till April 1845, and proceeded to China, touching at Moulmein and Singapore.	
10. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	- - No adjustment, with the exception of a sum total of -		1,148 9 1	- ditto - -	Bombay.	

Fort William, Marine Superintendent's Office,
4 September 1852.

(signed) *H. Howe*,
Secretary to Superintendent of Marine.

No. 5.—RETURN of the SEA STEAMERS belonging to the Presidency of *Bengal*, for 1845–46.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging. £. s. d.	Original Cost of Blocks and Rigging. Rs. a. p.	Annual Cost of Establishment. Rs. a. p.	All Other Charges. Rs. a. p.	TOTAL. Rs. a. p.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
1. Tenasserim -	- - Two 68-pounders on circles, one forward and one aft; two 34-pounders broadside guns.	769	220	1839	39,884 12 3	3,98,840 1 11	37,083 8 8	81,782 10 6	1,18,866 3 2	- External steam navigation.	- - Employed conveying troops, &c., between Calcutta, Arracan, Straits and Madras, till the 23d November, when she proceeded to Ceylon and Mauritius, in search of the shipwrecked crew of the Letitia, at Congo Doss Goradoss. Returned in January 1846.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estamuted or authorised establishments, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18-pounders, broadside.	513	120	1838	25,360 7 3	2,53,603 10 3	31,748 2 6	44,381 5 3	76,129 7 9	- ditto - -	- - Calcutta, with occasional trips to the Arracan and Tenasserim provinces.	
3. Ganges -	- - One 24-pounder howitzer; four 12-pounders broadside guns.	305	80	1827	24,181 18 –	2,41,819 – –	13,743 9 9	5,250 3 1	18,993 12 10	- Tenasserim provinces.	- - In Moulmein till September, when she was condemned, sent to Calcutta, and sold by public auction.	
4. Irrawaddy -	- - Two 24-pounders howitzers, two long 6-pounders, two 3-pounders, and one 6-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,503 – –	15,579 3 2	16,248 – 1	31,827 3 3	- External steam navigation.	Calcutta station.	
5. Diana - -	- - Two 9-pounders on circles; four 3-pounders.	168	50	1836	7,600 – –	76,000 – –	18,524 14 2	28,525 3 3	47,050 1 5	- Government of India.	Straits.	
6. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	8,613 8 4	13,178 12 4	21,792 4 8	- External steam navigation, till sent to Straits.	- - Calcutta, laid up till December, when she proceeded to the Straits to relieve the Diana.	
7. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders, brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	34,985 3 3	16,568 6 10	51,553 10 3	- Government of India.	Straits.	
8. Proserpine -	Two 24-pounders howitzers	400	100	1841	23,556 13 9	2,35,566 14 –	21,757 3 10	45,051 4 6	66,808 8 4	- Tenasserim provinces, while at Moulmein.	- - Calcutta, sent to Moulmein on the 20th August.	
9. Nemesis -	- - Two 32-pounders on circles.	600	120	1840	28,942 14 4	2,89,427 2 8	36,177 4 11	15,176 9 3	51,353 14 2	- Her Majesty's Colonial Government, Hong Kong.	China.	
10. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circle.	450	90	1841	40,314 11 4	4,03,145 10 8	35,255 9 1	5,416 5 9	40,671 14 10	- ditto - -	- - Bombay, till June 1845, when she returned to China.	

No. 6.—RETURN of the SEA STEAMERS belonging to the Presidency of *Bengal*, for 1846–47.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging. £. s. d.	Original Cost of Blocks and Rigging. Rs. a. p.	Annual Cost of Establishment. Rs. a. p.	All other Charges. Rs. a. p.	TOTAL. Rs. a. p.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
1. Tenasserim -	- - Two 68-pounders on circles, one fore and one aft; two 34-pounders broadside guns.	769	220	1839	39,884 12 3	3,98,846 1 11	38,885 5 –	89,899 11 6	1,28,785 – 6	- External steam navigation.	- - Employed between Calcutta and the Arracan and Tenasserim Provinces, besides some casual trips on detached service.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18-pounders broadside.	513	120	1838	25,360 7 3	2,53,603 10 3	33,599 6 4	45,383 12 11	78,983 3 3	- - ditto -	- - Calcutta, with occasional trips to Arracan, Moulmein, Pooree, and Balacore.	
3. Irrawaddy -	- Two 24-pounders howitzers; two long 6-pounders; two 3-pounders; and one 6-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,503 – –	15,628 3 8	32,084 2 –	47,692 5 8	- - ditto -	- - Calcutta, with a few trips to Dacca, Chittagong, &c.	
4. Diana - -	- - Two 12-pounders carronades, afterwards reduced to one; one brass 12-pounder on circles.	168	50	1836	7,600 – –	76,000 – –	17,574 13 1	9,693 13 3	27,268 10 4	Arracan province	- - From March 1846 to February 1847 on the Arracan coast.	
5. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	21,268 – –	- - No adjustment, excepting a sum of	165 9 10	Government of India.	Straits.	
6. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders, brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	12,160 14 11	14,015 6 5	26,176 5 4	- Ditto, till in the Straits, the rest external steam navigation.	- - Straits till November, when she returned to Calcutta and went into dock.	
7. Proserpine -	Two 24-pounders howitzers	400	100	1841	23,556 13 9	2,35,566 14 –	28,163 13 3	18,350 14 10	46,514 12 1	- Tenasserim provinces.	- - Returned from the Tenasserim provinces in December 1846, for repairs.	
8. Nemesis -	Two 32-pounders on circles	660	120	1840	28,942 14 4	2,89,427 2 8	39,644 – –	- - No adjustment, excepting a sum of	135 9 2	Her Majesty's Colonial Government, Hong Kong.	Partly China and partly Straits.	
9. Pluto - -	- - Two brass 6-pounders; one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	32,052 – –	- - No adjustment - -		- - ditto -	China.	

Fort William, Marine Superintendent's Office,
4 September 1852.

(signed) *H. Howe*,
Secretary to Superintendent of Marine.

No. 7.—RETURN of the SEA STEAMERS belonging to the Presidency of *Bengal*, for 1847–48.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging. £. s. d.	Original Cost of Blocks and Rigging. Rs. a. p.	Annual Cost of Establishment. Rs. a. p.	All other Charges. Rs. a. p.	TOTAL. Rs. a. p.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
1. Tennsserim -	- Two 68-pounders on circles, one forward and one aft; two 34-pounders broadside guns.	769	220	1841	39,884 12 3	3,98,846 1 11	35,662 3 1	75,468 2 3	1,11,130 5 4	- External steam navigation.	- Madras, Arracan, Moulmein, and Calcutta.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remarks apply to all the returns of this series.
2. Fire Queen -	- - Two 12-pounders on circles.	580	200	- -	8,500 – –	85,000 – –	10,299 7 5	36,279 8 5	46,578 15 10	- ditto - -	- - Purchased on the 19th August 1847, and employed on the Arracan and Moulmein line.	
3. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18-pounders broadside.	513	120	1838	25,360 7 3	2,53,603 10 3	31,735 10 5	60,864 3 5	92,599 13 8	- ditto - -	- - Arracan, Moulmein, Calcutta, &c.; from October 1847 undergoing repairs.	
4. Irrawaddy -	- Two 24-pounders howitzers, two long 6-pounders; two 3-pounders; and one six-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,503 – –	18,376 4 5	16,394 9 8	34,771 14 1	- ditto, till sent to Arracan.	- - Calcutta, till February 1848, when she went on service to Arracan.	
5. Diana - -	- - One 12-pounder carronade; one brass 12-pounder on circles.	168	50	1836	7,600 – –	76,000 – –	3,087 4 10	9,691 5 2½	12,778 10 –½	- - Arracan province.	- On the Arracan coast in January and February, returned to Calcutta and went into dock, and was finally condemned and sold on the 3d August.	
6. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	20,932 – –	No adjustment made this year	No adjustment made this year	- Government of India.	Straits.	
7. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders, brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	11,677 15 9	42,785 3 2½	54,463 2 11½	- ditto - -	Straits.	
8. Proserpine -	- - Two 24-pounders howitzers.	400	100	1841	23,556 13 9	2,35,566 14 –	24,284 6 8	62,162 5 3	86,446 11 11	- Tenasserim provinces.	Tenasserim provinces.	
9. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	42,944 – –	23,592 7 11	65,536 7 11	- External steam navigation after her return.	- - Singapore, till December 1847, when she came to Calcutta for repairs.	
10. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	32,052 – –	- - No adjustment made this year, with the exception of a small sum of - -	251 – 7	Her Majesty's Colonial Government, Hong Kong.	China.	

Fort William, Marine Superintendent's Office,
4 September 1852.

(signed) *H. Howe*,
Secretary to Superintendent of Marine.

No. 8.—RETURN of the SEA STEAMERS belonging to the Presidency of Bengal, for 1848-49.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging. £. s. d.	Original Cost of Blocks and Rigging. Rs. a. p.	Annual Cost of Establishment. Rs. a. p.	All other Charges. Rs. a. p.	TOTAL. Rs. a. p.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
1. Tenasserim -	- - Two 68-pounders on circles, one forward and one aft; two 34-pounders broadside guns.	769	220	1841	39,884 12 3	3,98,846 1 11	42,963 3 8	66,756 4 7	1,16,019 8 3	- - External steam navigation.	- - Variously: Moulmien, Arracan, Madras, and Calcutta.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Fire Queen -	- - Two 12-pounders on circles.	580	200	- -	8,500 – –	85,000 – –	7,718 – 4	21,937 8 8	29,665 9 –	- ditto - -	Calcutta; unemployed.	
3. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18 pounders broadside.	513	120	1838	25,360 7 3	2,53,603 10 3	33,743 – 6	48,165 1 10	81,908 1 10	- ditto - -	- - Monthly trips to Arracan and Moulmein.	
4. Irrawaddy -	- - Two 24-pounders howitzers; two long 6-pounders; two 3-pounders, and one 6-pounder rocket-tube.	300	80	1841	17,350 6 –	1,73,503 – –	18,514 2 4	18,313 14 4	36,830 – 8	- - Arracan province.	Arracan.	
5. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	20,932 – –	- - No adjustment excepting a sum total of -	17,422 12 11	Government of India.	Straits.	
6. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders, brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	42,636 – –	20,108 11 3	62,744 11 3	- - Her Majesty's Colonial Government, Hong Kong.	- - Under repairs till October 1848, when she returned to China.	
7. Proserpine -	- - Two 24-pounders howitzers.	400	100	1841	23,556 13 9	2,35,566 14 –	30,707 11 7	13,245 1 4	43,952 2 11	- - Tenasserim province.	Tenasserim provinces.	
8. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	17,097 1 10	17,097 1 10	1,08,438 6 6	- - Her Majesty's Colonial Government, Hong Kong.	- - Under repairs till November; the rest of the time employed in the Straits, and Labuan.	
9. Pluto - -	- - Four brass 6-pounders; one 32 pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	32,050 – –	16,499 4 11	48,549 4 11	- ditto - -	China till March 1849.	

Fort William, Marine Superintendent's Office, 4 September 1852.

(signed) *H. Howe,* Secretary to Superintendent of Marine.

No. 9.—RETURN of the SEA STEAMERS belonging to the Presidency of *Bengal*, for 1849–50.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging. £. s. d.	Original Cost of Blocks and Rigging. Rs. a. p.	Annual Cost of Establishment. Rs. a. p.	All other Charges. Rs. a. p.	TOTAL. Rs. a. p.	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
1. Tenasserim -	- - Two 68-pounders on circles, one forward and one aft; two 34-pounders broadside guns.	769	220	1811	39,884 12 3	3,98,846 1 11	45,915 8 11	66,311 5 6	1,12,226 14 5	- External steam navigation.	Chiefly in Madras.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Fire Queen -	Two 12-pounders on circles	580	200	- -	8,500 – –	85,000 – –	5,597 13 8	35,937 7 7	41,535 5 3	- ditto - -	- - Partly on the Arracan and Moulmein line, the rest of the time unemployed.	
3. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18-pounders, broadside.	513	120	1838	25,360 7 3	2,53,603 10 3	31,353 15 3	46,131 3 8	77,485 2 11	- ditto - -	- - ditto.	
4. Irrawaddy -	- Two 24-pounders howitzers; two long 6-pounders; two 3-pounders; and one 6-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,503 – –	17,460 2 11	11,290 6 7	28,750 9 6	- - Arracan province.	- - Arracan province till the 9th February 1850, when struck upon a rock near Atagat, and ultimately was broken up.	
5. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	21,984 – –	12,314 1 –	34,298 1 –	- - Government of India.	Straits.	
6. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders, brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	42,636 – –	14,282 5 4	56,918 5 4	- - Her Majesty's Colonial Government, Hong Kong.	China seas.	
7. Proserpine -	- - Two 24-pounders howitzers.	400	100	1841	23,556 13 9	2,35,566 14 –	31,982 – –	6,756 10 1	38,738 10 1	- - Tenasserim provinces.	Tenasserim provinces.	
8. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	42,844 – –	19,331 4 5	62,175 4 5	- - Her Majesty's Colonial Government, Hong Kong.	Borneo.	
9. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	23,194 5 4	54,534 15 7	77,749 4 11	- External steam navigation.	Under repair, and unemployed.	

(signed) *H. Hore.*

No. 10.—RETURN of the SEA STEAMERS belonging to the Presidency of *Bengal*, for 1850–51.

NAMES.	ARMAMENT.	Tonnage.	Horse Power.	When Built.	Original Cost of Blocks and Rigging. £. s. d.	Original Cost of Blocks and Rigging. *Rs. a. p.*	Annual Cost of Establishment. *Rs. a. p.*	All other Charges. *Rs. a. p.*	TOTAL. *Rs. a. p.*	How Debited in the Books of the Bengal Presidency.	WHERE EMPLOYED.	REMARKS.
1. Tenasserim -	- - Two 68-pounders on circles, one forward and one aft; two 34-pounders broadside guns.	769	220	1841	29,884 12 3	2,98,846 1 11	36,342 – 2	1,14,357 6 –	1,50,699 6 2	- - External steam navigation.	- - Arracan, Moulmein, Madras, Calcutta, &c.	*Note.*—The figures in the column of "Annual Cost of Establishment" show, in the majority of instances, the estimated or authorised establishment, and in some only the amount actually disbursed and audited on account of establishment during the year. The sums set down in the two succeeding columns merely exhibit the audited sums entered in the books of the Marine Department of the Bengal Presidency. The same remark applies to all the returns of this series.
2. Fire Queen -	Two 12-pounders on circles	580	200	- -	8,500 – –	85,000 – –	3,597 10 8	5,833 14 8	9,431 9 4	- ditto - -	Calcutta; unemployed.	
3. Enterprise -	- - Two 12-pounders on circles, fore and aft; two 18-pounders broadside.	513	120	1838	25,360 7 3	2,53,603 10 3	33,807 9 10	35,578 2 10	69,386 12 8	- ditto - -	Arracan, Moulmein, and Calcutta.	
4. Hooghly -	- - Two long 9-pounders on circles.	193	50	1841	11,613 16 –	1,16,138 – –	21,001 7 1	16,856 7 –	37,857 14 1	- - Government of India.	Straits.	
5. Phlegethon -	- - Two 32-pounders on circles; four 6-pounders brass guns.	500	110	1841	24,287 16 4	2,42,878 2 8	43,128 – –	28,104 3 7	61,232 3 7	- - Her Majesty's Colonial Government, Hong Kong.	In China.	
6. Proserpine -	Two 24-pounders howitzers	400	100	1841	23,556 13 9	2,35,566 14 –	31,957 1 7	14,247 5 5	46,204 7 –	- - Tenasserim provinces.	Tenasserim provinces.	
7. Nemesis -	- - Two 32-pounders on circles.	660	120	1840	28,942 14 4	2,89,427 2 8	42,488 – –	27,399 4 1	69,887 4 1	- - Her Majesty's colonial Government, Hong Kong.	- - Borneo, till March 1851, when she came to Calcutta for repairs.	
8. Pluto - -	- - Four brass 6-pounders; one 32-pounder on circles.	450	90	1841	40,314 11 4	4,03,145 10 8	22,643 13 –	6,785 8 9	90,502 6 –	- - External steam navigation till she left.	- - Left for the Straits to rejoin the Royal service in March 1851.	
9. Mohanuddy -	None - - - -	90	200	1843	9,900 – –	90,000 – –	- - The sums are not given, as this vessel was only for about a month rated as a sea steamer.			- - Arracan province.	- - This vessel was transferred from the island to the sea service in March 1851, to take the place of the "Irrawaddy."	
10. Irrawaddy -	- - Two 24-pounders howitzers, two long 6-pounders, two 3-pounders, and one 6-pounder rocket tube.	300	80	1841	17,350 6 –	1,73,502 – –	5,924 12 6	2,406 15 –	8,331 11 6	- ditto.	—	

Fort William, Marine Superintendent's Office, 4 September 1852.

(signed) *H. Howe*, Secretary to Superintendent of Marine.

(A.)

STATEMENT showing the Periods of Employment of the WAR STEAMERS of the BENGAL PRESIDENCY in the ROYAL SERVICE, from 1st May 1840 to 30th April 1852, with the Sums debited in the Books of the Accountant of *Bengal* to "Her Majesty's Colonial Government, *Hong Kong*," for the Wear and Tear of the Vessels, at the Rate of Ten per Cent. on the Cost of Block and Rigging.

NAMES of VESSELS.	COST of BLOCK and RIGGING. £. s. d.	C.Rs. a. p.	FIRST PERIOD of Employment in Her Majesty's Service. From	To	Years.	Months.	Days.	Ten per Cent. on the Block and Rigging. C.Rs. a. p.	SECOND PERIOD of Employment in Her Majesty's Service. From	To	Years.	Months.	Days.	Ten per Cent. on the Block and Rigging. C.Rs. a. p.	THIRD PERIOD of Employment in Her Majesty's Service. From	To	Years.	Months.	Days.	Ten per Cent. on the Block and Rigging. C.Rs. a. p.	FOURTH PERIOD of Employment in Her Majesty's Service. From	To	Years.	Months.	Days.	Ten per Cent. on the Block and Rigging. C.Rs. a. p.
Queen - -	44,409 17 11	4,44,098 15 4	1 May 1840	22 Jan. 1843	2	8	22	1,21,140 5 3	—																	
Tenasserim -	39,884 12 3	3,98,846 1 11	1 Feb. 1842	20 Oct. 1842	–	8	10	27,697 10 3	—																	
Enterprise -	25,360 7 3	2,50,603 10 3	1 May 1840	28 Feb. 1841	–	10	–	21,133 10 3	—																	
Nemesis -	28,942 14 4	2,89,427 2 8	1 Mar. 1840	28 Feb. 1843	3	–	–	86,828 2 3	23 July 1845 and 22 Dec. 1848	5 Nov. 1847 30 April 1850	2 1 3	3 4 7	14 11 25	1,05,721 4 9	1 May 1850	28 Feb. 1851	–	10	–	24,118 14 10	1 May 1851	30 April 1852	1	–	–	28,942 11 5
Phlegethon -	24,287 16 4	2,42,878 2 8	1 June 1841	15 June 1843	2	–	15	40,587 10 –	1 Sept. 1847	30 April 1850	2	7	–	62,743 8 4	1 May 1850	30 April 1851	1	–	–	24,287 13 –	1 May 1851	6 Dec. 1851	–	7	6	14,572 11 –
Proserpine -	23,556 13 9	2,35,566 11 –	1 May 1842	30 April 1845	3	–	–	70,670 1 –	—																	
Pluto - -	40,314 11 4	4,03,145 10 8	28 Oct. 1841	31 Jan. 1843	1	3	4	50,841 2 3	1 May 1845	5 Mar. 1849	3	10	5	1,55,099 1 5	16 Mar. 1851	30 April 1851	–	1	16	5,093 8 1	1 May 1851	30 April 1852	1	–	–	40,314 9 1
Hooghly -	11,613 16 –	1,16,138 – –	24 June 1841	21 Dec. 1842	1	5	28	17,356 2 9	—																	
Madagascar -	20,000 – –	2,00,000 – –	1 April 1840	19 Sept. 1841	1	–	19	2,00,000 – –*	—																	

* The "Madagascar" was burnt by fire, in a typhoon, in the China Seas, while lent for the Royal Service, and the full value of this vessel is consequently charged to Her Majesty's Government.

NAMES OF VESSELS.	TOTAL EMPLOYMENT of each Vessel in Her Majesty's Service, from 1 May 1840 to 30 April 1852. Years.	Months.	Days.	TOTAL AMOUNT charged to Her Majesty's Government, at 10 per Cent. on the Value of each Steamer, for Wear and Tear, from 1 May 1840 to 30 April 1852. C.Rs. a. p.	REMARKS.
Nemesis - - - - - - - - - -	8	5	25	2,45,611 1 3	
Phlegethon - - - - - - - - -	6	2	21	1,51,191 10 4	
Proserpine - - - - - - - - -	3	- - -	- - -	70,670 1 –	
Pluto - - - - - - - - - -	6	2	25	2,51,348 4 10	
Queen - - - - - - - - - -	2	8	22	1,21,140 5 3	
Madagascar - - - - - - - - -	1	- - -	19	2,00,000 – –	As explained above, the full value of the "Madagascar" was charged to Her Majesty's Government.
Tenasserim - - - - - - - - -	- - -	8	10	27,697 10 3	
Enterprise - - - - - - - - -	- - -	10	- - -	21,133 10 3	
Hooghly - - - - - - - - - -	1	5	28	17,356 2 9	
		TOTAL - - -	*Co.'s Rupees*	11,06,148 13 2	

Note.—Besides the 10 per cent. on the value of block and rigging, all other expenses incurred on account of each vessel, during its actual employment in the Royal Service, are also debited to "Her Majesty's Colonial Government, Hong Kong," since September 1843, and are shown in the Returns from No. 1 to No. 10.

(signed) *H. Howe,*

(B.)

Appendix, No. 2.

A brief History of the Employment of the Sea Steamers belonging to the *Bengal* Presidency, from 1841–42 to 1850–51.

Honourable Company's Steamer "Queen."

This vessel was employed with the expedition in China from the 1st May 1840 to the 22d January 1843; the greater part of 1843 she was unemployed in Calcutta, but in the early part of 1844, she made a few trips to Arracan, &c., and lastly, was employed at Bombay. In November 1844 she was finally transferred from Bengal to the Bombay Presidency.

Honourable Company's Steamer "Tenasserim."

This steamer was built in Moulmein in 1841, and her first employment was with the expedition in China, on which service she was placed in February 1842, and continued in it till the October following. The first half of 1843 she was engaged on a trip to Suez, and the remaining months of the year was on the Calcutta station.

From the 1st May to 1st August 1844 she was unemployed; on the latter date she proceeded to Suez with the late Governor-general, Lord Ellenborough, and returned to Calcutta on the 29th October with 17 lacs of treasure from Masulipatam. Between the 8th of January and 6th February 1845 this vessel, with the "Amherst" in tow, effected the relief of native troops in Arracan. On the 12th March she was sent to assist in the relief of troops between Moulmein and Madras, and having performed this service, brought round 10 lacs of rupees from Masulipatam to Calcutta. In 1845–46, besides being employed, along with the "Enterprise," in keeping up the monthly communication between the Presidency and Arracan and Moulmein, the "Tenasserim" was engaged on detached service. From the 6th May to the 7th June she went on a trip to the Straits; she underwent repairs till October, when she made two successive trips to Moulmein and Arracan. From 23d November to 19th January she was away on a trip to the Southern Indian Ocean to examine the reefs called the Cargados, Garajos, and the rocks and islets in that vicinity, as well as in search of the shipwrecked crew of the ship "Letitia," of this port, lost on a reef near those dangers two days after she left Mauritius. From February to April the "Tenasserim" was principally employed on the Madras coast. During the official year 1846–47 this vessel made five monthly trips to the Tenasserim and Arracan Provinces, in one of which she struck on the Alguada Rocks, and was, in consequence, in dock for five weeks from the 1st June. In December she assisted in the relief of troops in Arracan; in January she took troops to Pooree, and the remainder of the year was variously employed on the same description of service, chiefly on the Madras coast. This steamer was employed in only two trips to Arracan and Moulmein in 1847–48. Between August and January she was unemployed, getting new boilers fitted; the rest of the year she was placed at the disposal of the Madras Government, and was principally employed for the conveyance of troops, European and native; in the course of this service she conveyed between different ports 51 officers and 3,059 men; in June, July, and December respectively of the year 1848–49, the "Tenasserim" was employed on the monthly communication with Arracan and Moulmein; the remaining period of her service during the official year was performed for the most part on account of the Madras Government in the transit of troops from place to place, having, at different times, on board 33 officers and 1,750 men, exclusive of camp followers, who were conveyed distances varying from 2,000 to 800 miles. Up to May of 1849, this vessel was engaged in the service of the Madras Government, and returned to Calcutta on the 16th of that month; she made the June, July, August, September, and November trips to the Arracan and Tenasserim Provinces. From December to April of the official year 1849–50 she was again engaged in service in Madras, and conveyed troops to different places to the extent of 2,741, including women, children, and followers, and traversing a distance of 11,000 miles, backwards and forwards. On her return in April she was again employed in taking troops to Moulmein, and thence to Beuilipatam. During the official year 1850–51 she was variously employed in transporting troops as well as taking her share in keeping up the monthly communication with Arracan and Moulmein.

Honourable Company's Steamer "Fire Queen."

This steamer was purchased in August 1847, and up to the end of the official year 1847–48 occasionally took the place of the "Tenasserim" and "Enterprise" on the Arracan and Moulmein line, when either of those vessels were under repair; the officers and crew of the vessel laid up being transferred to the "Fire Queen" for the time being. She was employed during the next official year, with the exception of one trip to Madras, to assist in the movements of troops. In 1849–50 she was unemployed, with the exception of three trips to Arracan and Moulmein, and in the next official year she was altogether unemployed, getting the "Atalanta's" engines and new boilers fitted, &c.

Appendix, No. 2.

Honourable Company's Steamer "Enterprise."

During ten months, namely, from the 1st May 1840 to the end of February 1841, the "Enterprise" was employed with the Chinese Expedition. She then returned to Calcutta, and remained on the Calcutta station until May 1844, from which date to the 5th August the same year, she was kept at Moulmein, and was employed in various service under the orders of the Commissioner of the Tenasserim Provinces. Being relieved by the "Ganges," she returned to Calcutta on the 11th August, and between that month and the October following, she performed several short trips to Sandheads, Chittagong, &c. On the 29th October, she proceeded to Madras with military stores, and to Bombay for treasure. About the middle of December, she returned from the latter Presidency with 21 lacs of rupees and the Scinde prize property; and on the 28th of the same month was dispatched in search of two missing vessels, the "Runneymede" and "True Briton;" she returned on the 17th January, and the rest of the official year 1844-45 she was employed on several trips; in taking stores to the light-house, in False Point; conveying the Acting Superintendent of Marine, the late Colonel Irving, on a tour of inspection to Chittagong, Arracan, and Moulmein, and assisting in the relief of troops between the Tenasserim Provinces and Madras. During the months of May to July 1845, this steamer was variously employed making one or two trips to Akyah and Moulmein, a few casual ones to the Sandheads; and from August to the end of April 1846, she was engaged in keeping up the monthly communication with Arracan and Moulmein. Besides some unimportant occasional service, she made seven trips to Arracan and Moulmein during the official year 1846–47. In 1847–48 this vessel made three trips to Arracan and Moulmein, and part of one in September, when she grounded on the Oyster Reef in Arracan, and was in consequence detained there, and subsequently remained under repairs in Calcutta till December. In February she proceeded to Madras and took troops for China; but learning at Singapore that they were not required, the steamer returned with the troops to Madras. She continued on the Madras coast up to the month of April, and was in various ways employed for the conveyance of troops and treasure. During June and July, the "Enterprise" was laid up, but from that time to the end of the official year 1848-49, she ran on the Arracan and Moulmein line, making in all eight trips, besides assisting in the movements of troops between Madras and Chittagong in the month of October. In May 1849, she made one trip to Arracan and Moulmein, and three more in February, March, and April 1850. During the official year 1850–51, the "Enterprise" made seven trips to Arracan and Moulmein.

Honourable Company's Steamer "Ganges."

During 1841-42 and 1842–43 she was on the Calcutta station, and in the following year partly in Calcutta and partly in Arracan. In August 1844, she relieved the "Enterprise" at Moulmein, where she was variously employed under the Commissioner, and in April 1844 made a trip to the Nicobar Islands to ascertain the fate of the crew of a vessel supposed to have been cut off by pirates. In September 1845 this vessel was sold out of the Government service.

Honourable Company's Steamer "Irrawaddy."

This vessel was built of iron, and completed at the end of 1842; she was kept in Calcutta until 1843-44, during which and the next official year, with the exception of two trips to Arracan, she was principally employed in river service, occasionally towing a vessel, or taking pilots to Sandheads, &c. The following year 1845-46, she was similarly employed, and made one trip to Arracan. She continued in the river service till March 1847, when she was sent to Moulmein. In February 1848 she was again sent to Arracan, and continued employed in the province until the month of February 1850, when she struck upon a rock near Akyab, and was ultimately broken up.

Honourable Company's Steamer "Diana."

The "Diana" was all along employed in the Straits, chiefly in conveying the Honourable Governor and other public officers to and from the different settlements. On its being determined that her place should be taken by the "Hooghly," the "Diana" came here in January 1846, and in March was dispatched to Arracan, to take up her station in that province, in aid of the military force, which was diminished about that time. She came back in February 1847 to be thoroughly repaired. She was finally sold on the 3d August same year.

Honourable Company's Steamer "Hooghly."

This was another of the vessels that were attached to the expedition in China; she was so employed from June 1841 to December 1842. In February and March 1843, was in the Tenasserim Provinces; for the first half of 1844-45 was employed in the Straits, and from thence

thence returned to Calcutta again, and was laid up in ordinary till December 1845, when she was sent back to the Straits for the purpose of relieving the "Diana," and has continued there for the suppression of piracy, coming to Calcutta occasionally for repair of engines, &c. Appendix, No. 2.

Honourable Company's Steamer "PHLEGETHON."

FROM the 1st June 1841 to June 1843, the "Phlegethon" was among the vessels engaged in the Chinese expedition. She returned to Calcutta, and remained here till April 1844, when she was despatched to cruise against the pirates in the Straits; but though this was the ostensible service on which she was sent, she was almost exclusively employed in company with Her Majesty's ships against the pirates on the coast of Borneo. She was so employed up to the month of November 1846, and returned to Calcutta for repairs, which being completed, she was sent to the Straits in July 1847. She returned to her station in China in October 1848, and relieved the "Pluto." In 1850–51 she was still in China, under the orders of the naval Commander-in-chief.

Honourable Company's Steamer "PROSERPINE."

THE "Proserpine" was sent direct from England to China in 1840, where she joined the expedition in May 1842, and continued with it up to April 1845, when she returned to Calcutta. In August, the same year, she was sent to Moulmein, to take the place of the "Ganges," and continued attached to the Tenasserim Provinces up to the date of this return.

Honourable Company's Steamer "NEMESIS."

WAS sent direct from England to China in March 1840; she remained in China to the beginning of 1843, and in April of the latter year was sent round to Bombay, where she was employed variously, but chiefly in conveying troops to and from Kurrachee, till towards the end of 1844, when she was required to relieve the "Proserpine," in China. The Bombay Government accordingly despatched her to Calcutta for a crew, but on her voyage hither she encountered boisterous weather, and sustained considerable damage, rendering it necessary to dock and repair her on arrival. She was sent away on the 30th April for China, and continued in Her Majesty's service till November 1847, when she came to Calcutta for repairs. She left in December 1848 to rejoin the Royal vessels, and remained employed for the suppression of piracy in Borneo till March 1851, when she came round here for repairs.

Honourable Company's Steamer "PLUTO."

THE "Pluto" was sent from England direct to China; remained with the Chinese expedition from October 1841 to January 1843, when she came to Calcutta; and in April 1843 proceeded to Bombay, and was there employed along with the "Nemesis," chiefly in effecting the passage of troops to and from Kurrachee. In May 1845 she was ordered to China to relieve the "Medusa," and remained in Her Majesty's service there till March 1849, on the 3d of which month she came to Calcutta to be repaired, and in March 1851 left to proceed to the Straits, and resume her place with the vessels of Her Majesty's service, under the orders of the naval Commander-in-chief, China Seas.

Honourable Company's Steamer "MADAGASCAR."

THE "Madagascar" was purchased for service with the expedition in China, which she joined in April 1840. She returned here with the despatches a few months afterwards, and was again despatched in August 1841 to resume her place with the expedition; but while on her voyage up the China Seas on the 19th September of the same year, she was totally destroyed by fire during a typhoon.

W. Howe,
Secretary to the Superintendent of Marine.

Fort William, Marine Superintendent's Office,
4 September 1852.

Appendix, No. 2.

(C.)

REGULATIONS for the Guidance of COMMANDERS, OFFICERS, and ENGINEERS, &c. attached to the GOVERNMENT STEAM VESSELS.

1st. EVERY commander, officer, engineer, or other person shall make himself acquainted with and shall duly observe the following regulations, and all others that may from time to time be given or issued by competent authority, and shall in all other respects conform to the usage of the service, and to the rules issued by the commander of the particular ship on board which he may serve.

2d. Every commander, officer, or engineer, or other person, from the time of his joining the vessel to which he is appointed to that of his being discharged, is to be constant in his attendance on board; and no officer is to go out of the vessel without being sent by or having permission from the commanding officer on board; and every officer or other person, when he returns on board after being absent, whether on duty or on leave, is to report his return to the commanding officer.

3d. The order of rank or subordination is as follows:

Commander.
First, or chief, and second officer.
Surgeon.
Engineer.
Third officer or gunner.
Assistant engineer.

4th. The commander is to do his utmost to maintain the vessel he commands in efficiency and good discipline, and he is to be particularly attentive to the cleanliness of the men, and to the tidiness of their apparel, and they are never to be permitted to sleep in wet clothes or on a wet deck; he is to enforce strict obedience from all persons embarked to the rules and regulations of the service, and to such orders as he may from time to time issue, by his own, or be desired by superior authority to promulgate.

5th. He is himself to observe and to require from those under his authority a respectful and courteous demeanour.

6th. The chief officer, who is the executive officer of the ship, is to give his most effective support to his commander, whose confidence he does or ought to possess; he is to recollect that, as the first subordinate officer in the ship, it behoves him, by an example of respect and obedience to his commander, to induce a like conduct from the officers subordinate to himself.

7th. It is his duty to make himself thoroughly acquainted with every circumstance relating to his ship and the machinery, and to use every endeavour to maintain good discipline, and to forward by all means in his power the duty of his ship in every department.

8th. The duties of the second officer are akin to those of the chief officer, whose duties may devolve upon him from sickness or absence.

9th. If an officer, engineer, or other shall observe any misconduct in his superior, or shall suffer any personal oppression, or injustice, or other ill-treatment, he is not on that account to fail in any degree in the respect and obedience due to such superior officer; but he is to represent such misconduct or ill-treatment in the first instance to the captain or commanding officer of the vessel to which he belongs, or subsequently to the Controller of Steam Vessels for reference to the Marine Board, or, if necessary, to Government; or should the steam vessel be absent from Calcutta, and placed under the orders of any Government Commissioner, commander of a squadron, or other authority, the appeal shall then be from the commander of the ship to such superior authority.

10th. Every officer, engineer, or other person is strictly enjoined to refrain from making any remarks or observations on the conduct or orders of any of his superior officers, which may tend to bring them into ridicule or contempt.

11th. During the absence from Calcutta of any of the Honourable Company's steam vessels every officer is to sleep on board the vessel to which he belongs, and no officer is on any account, except when duty may require it, to be absent from the vessel to which he belongs for a longer period than 12 hours; and no vessel is at any time or on any account whatever to be left without either her captain or the chief or second mate, and either the first or second engineer.

12th. It is the duty of the commander and officers to attend to the well-being of the ship in which they serve in every department, and officers are not to imagine that because the engines are under the peculiar charge of an engineer, that they are therefore themselves exonerated from all responsibilities connected with them. They are, when upon watch, but particularly

particularly at night, to cast their eye frequently into the engine-room to see if the stokers or drivers on watch are attending to their duty; and the most serious accidents being likely to arise from water getting low in the boiler, they are frequently to inquire if the water-cocks have been tried, and should the water be below the lower cocks, he is immediately to cause the engineer to be called, and the fires to be drawn.

13th. Nothing contained in the foregoing regulation is intended to give authority to an officer to order any alteration, or adjustment, or repair of the engines; but if the officer of the watch or commanding officer is of opinion that the engines are not working well, he is to send for the engineer or assistant engineer in charge, and to consult with him, and make such suggestions and observations as may occur; and he is to require from the engineer or assistant engineer, as the case may be, such information and explanation on the subject as may appear necessary, or as the circumstances of the case may demand.

14th. It will be the duty of the officer to give every assistance to the engineers that may reasonably be required for the purpose of doing the repairs of his engines, and maintaining them in good and efficient order.

15th. No person, engineer or stoker, is to be permitted leave to absent himself from the vessel, or from his duty, without his first having obtained permission of the engineer or assistant engineer in charge, as the case may be.

16th. The engineer or assistant engineer, or person in charge of the engines, is to recollect that he is subordinate to the commander and officers of the vessel to which he is attached, and is to obey such commands as he may from time to time receive from such superior officers; and nothing contained in the 13th paragraph of these Regulations will justify the engineer, &c. in refusing to obey an order from a superior officer.

17th. If any officer, engineer, or other person shall receive from his superior an order which he may deem at variance with these Regulations, or calculated to cause serious mischief or damage to the ship or the machinery, he is to represent the same, and if after such representation shall still be directed to obey the order given, he is to do so; but he may, if he thinks it necessary, report the circumstance to superior authority.

18th. The engineer is to make himself intimately acquainted with the state and condition of every part of his engines, which he is to be careful to keep in good and efficient order; to assist him in which duty, the assistant engineers and native stokers will be placed under his direction; and in case of his requiring further assistance, he is to make the same known to the commanding officer, or the officer of the watch, as the case may be, who will on such representation render such further assistance as he may deem necessary.

19th. Although the assistant engineers and stokers employed in the Honourable Company's steam vessels will be principally under the directions of the engineer, the latter is to recollect they are not exclusively so, but that they are also subject to the orders of the commanding officer on board the ship, and to the regulations established for the good discipline thereof; and if it should at any time happen that the assistant engineers or stokers are called away or appointed to other duty than that connected with the engines, and if by such means the necessary work is interrupted, the engineer shall not presume to retain those persons contrary to the orders issued by or proceeding from the commanding officer, but he shall respectfully and quietly represent the same to the commanding officer, who, on such representation being made, will exercise his judgment on the occasion; and if after such representation to the commanding officer the work is impeded by the absence of the assistant engineers and stokers, no blame shall attach to the engineer, he having fulfilled his duty.

20th. The engineer is on the occurrence of any accident to make the same known to the commanding officer, or officer of the watch, as the case may be; and he is to use his best endeavours to explain the nature of the accident, its probable consequences, and the means he proposes to adopt for repairing the same.

21st. The engineer is not to consider as an improper interference with his duty, the commander or commanding officer making any inquiries or observations relative to the state of the machinery or the working of the engines; and if an officer misapprehends, it will be the duty of the engineer to explain and to set him right; and, far from withholding information, it is no less the duty than the manifest interest of the engineer to give the fullest and best information or explanation, as the case may be, for so the officers being more intimately acquainted with the nature of the machinery, shall be better enabled to estimate the nature and extent of the assistance which the engineer may on various occasions require.

22d. The commander of a Government steam vessel is not to quit the vessel he commands without acquainting the commanding officer therewith, and should he not be on deck to receive his commander on his return, which it is his duty to do, the commander is to require his attendance that the chief or commanding officer may so be aware of his return. No officer or other person is to quit the vessel without the sanction of the commanding officer on board, and each person on his return to the vessel is required to report his return to the commanding officer.

23d. Every commander and officer in or belonging to any of the Honourable Company's steam vessels is enjoined to make himself acquainted with the name of each man of the crew;

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crew; and upon all occasions when an individual of the crew is called upon, to designate or address him by his proper name, which is a mark of respect due from those of the highest to those of the lowest grade.

24th. Commanders may, if it be necessary for the punishment and control of offences, suspend officers from their duty, and place them under arrest, until the decision of superior authority be known; but during such suspension or arrest, such officer so suspended is to be permitted to take exercise on the deck at regulated intervals for the preservation of health, and if before appeal or representation can be made to superior authority, and orders be received thereupon, the services of such officer should be required, the commander may relieve such officer from arrest, and order him to return to and perform his duty, without any prejudice to the complaint that may be recorded against him; and any officer having been so placed under arrest, and afterwards ordered to resume his duty, will at his peril refuse to obey the command.

25th. Whenever an officer, serving on board or belonging to any Government steam vessel, shall have occasion to address any letter or petition or other document to superior authority, on any matter connected with the service, he shall submit such letter or petition to the commander of the ship or vessel to which he may belong, and such commander under no circumstances shall refuse to forward such letter, but take the earliest opportunity of sending it to its address.

(signed) *J. H. Johnston,*
Steam Department, 16 April 1840. Contr of Government Steam Vessels.

(True Copy.)

Fort William, Marine Superintendent's Office, 4 September 1852. *H. Howe,* Secretary.

(D.)

REGULATIONS for Manning, Promotion, and Services of the STEAMERS on the *Bengal* Establishment.

THE officers of the sea steamers belonging to the Presidency of Bengal are taken from the merchant service. Previous to appointment, they undergo an examination touching their qualifications for the appointment for which they are candidates. The rules of promotion for officers is seniority, when fitness is found. All appointments to command of sea-going steamers are submitted to Government. The appointments and distribution of the officers of inferior grades are made according as the head of the department thinks best for the interest of the service. Officers are considered as acting for the first year, and liable to be removed without formal trial and report to Government. No officer, after having served one year, is dismissed without trial, or without sanction of Government.

The Europeans shipped for vessels intended for war purposes, such as the "Nemesis," "Phlegethon," and "Pluto," which for many years past have been lent to Her Majesty's Government, sign articles as follows:—

"It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the Honourable East India Company's Steamer '   ' for general service, in the several capacities against their respective names, and for such time as their services may be required, not exceeding three (3) years from the date of this agreement.

"And the said crew further engage to submit to the laws and discipline as established for the government of the Indian Navy, and to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the commander, or his successor, in the event of his removal, from any cause whatever, and the officers of the ship, in everything relating to the ship, and the materials, stores, and provisions, or other articles thereof, whether on board such ship, in boats, or on shore.

"That one hour's absence from the ship, within twenty-four hours' previous to her intended departure from any port, or twenty-four hours' absence, without leave, at any one time, to forfeit one month's pay, or for further absence, at any time during their term of service, except by permission granted by the commander or commanding officer, to forfeit in proportion, unless urgent and sufficient cause can be shown for such absence.

"That any officer or seaman who shall have been sick or disabled at the time of his entry, and who shall have neglected to make the same known to the commander, such person shall not be entitled to any wages or compensation for whatever time he may be unfit for or absent from duty in consequence of such sickness or disease.

"That

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"That if any officer or seaman shall enter himself as qualified for duty to which he shall not prove competent, he will be subject to a reduction of the rates of wages hereby agreed for, in proportion to his capacity, as may be adjusted by the commander and one or more of his officers.

"That any seaman who shall actually desert the ship, shall forfeit his clothes and effects which he may have on board, and all wages and emoluments he might otherwise be entitled to receive.

"In consideration of which services, to be duly, honestly, carefully, and faithfully performed, the commander doth hereby promise and agree to pay to the said crew, by way of compensation, wages to the amount against the names respectively expressed.

"In witness whereof the said parties have hereto subscribed their respective names on the days mentioned against their respective signatures."

If any of the European seamen become ill and incapacitated for service during the period for which they have entered, they are provided with a passage to England. If they get disabled by wound in action, Government, with the sanction of the Honourable Court of Directors, grant them pensions. The men are provisioned by a scale as far as possible agreeing with that in use in Her Majesty's Navy.

The following is a List of Pay of Officers and Men:—

	Rupees.
Commanders of 1st class ships over 500 tons	500
Commanders 2d class, under 500 tons and over 300	400
Third class, under 300 tons	300
First officer	175
Second ditto	150
Third ditto	100
Surgeon	250
Gunner	55
Boatswain	55
Carpenter	60
Purser's steward	35
Gunner's mate	30
Boatswain's mate	30
Quartermaster	26
Able-bodied seamen	24
Ordinary seamen	18
Boy	15

H. Howe,
Secretary to the Superintendent of Marine.

Fort William, Marine Superintendent's Office,
4 September 1852.

(E.)

STATEMENT showing the Names and Stations of Officers whose Conduct formed the Subject of Inquiry and Report to Government. from 1841–42 to 1850–51.

NAMES.	STATIONS.	OFFENCE CHARGED.	DECISION.
Mr. R. S. Ross - Mr. Crawley - Mr. R. Roe -	Commander, - - Chief Officer, Second Officer, of the Honourable Company's steamer "Hooghly."	- - Running the steamer "Hooghly" into the barque "Borneo," in the Gasper Channel, in broad daylight, on the 15th December 1843; the barque being at the time on a wind working up Channel, and the steamer before the wind and under steam.	- - The decision of Government upon all the circumstances of the case was, that Mr. Roe, as the officer of the watch, and with reference to his previous conduct, should be dismissed the service; that Mr. Crawley, the chief officer, should be reprimanded; and Mr. Ross, the commander, reprehended for not more strictly enforcing discipline on his vessel.
Mr. W. M'Mahon	- - Chief Officer of the Honourable Company's steamer "Irrawaddy."	- - Disrespect towards his commander, and leaving the vessel on 4th March 1844, after having been refused permission to do so.	- - Reduced, by order of Government, from *Rs.* 250 to *Rs.* 150 per month.
Mr. Jas. Paterson	- - Commander of the Honourable Company's steamer "Tenasserim."	- - Running the "Tenasserim" on the Alguada Rocks on the morning of the 17th September 1846.	- - Acquitted by Government, but ordered to be warned for neglect of the lead.
Mr. S. Swinton -	- - Second Officer of the Honourable Company's steamer "Tenasserim."	- - Charged with, 1st. Ill-treating a number of the crew at different times; 2d. Being in a state of excitement from drink on the 8th November 1846; 3d. Firing one of the ship's guns at night in that state of excitement; 4th. Disobeying the chief officer's order on the 18th idem; and, lastly, Smoking a cigar on the quarter-deck, contrary to the rules of the ship.	- - Convicted of all the charges, and dismissed from the service by order of Government.
Mr. A. Cops -	- - Commander of the Honourable Company's steamer "Enterprize."	- - Running the vessel on the Oyster Reef, near Arracan, on the night of 14th September 1847, through neglect of the lead.	- - Acquitted by order of Government, except as regards negligence in not having the lead going.
Mr. Delafons -	- - Second Officer of the Honourable Company's steamer "Enterprize."	- - Being asleep, locked up within the quarter gallery, at 2.30 a. m. of 14th November 1848, in his watch, while the vessel was under-weigh.	- - Dismissed from the service, by order of Government.
Mr. A. Cops -	- - Commander of the Honourable Company's steamer "Enterprize."	- - Running the steamer into danger on the coast of Arracan, on the 28th September 1848, through want of due care and ordinary caution.	- - Suspended from pay and employment for three months, by order of Government.
Mr. S. Coverley -	- - Commander of the Honourable Company's steamer "Irrawaddy."	- - Grounding, and ultimate loss of the steamer in the Arracan River, in February 1850.	Acquitted, by order of Government.

Fort William, Marine Superintendent's Office, 4 September 1852.

H. Howe,
Secretary to the Superintendent of Marine.

(True Copies.)

Marine Department, East India House, 11 November 1852.

J. C. Mason.

East India House, 21 February 1853

JAMES C. MELVILL.

Appendix, No. 3.

Appendix, No. 3

CRIMINAL JUSTICE, 1833.

BENGAL (Lower Provinces).

Under Trial.	CONVICTED.				ACQUITTED.				Remaining for Trial.	Casualties.	Sent back for Re-Trial by Nizamut Adawlut.
	By Nizamut Adawlut.	By Circuit and Sessions Courts.	By Magistrates, Joint, and Assistant Magistrates.	TOTAL.	By Nizamut Adawlut.	By Circuit and Sessions Courts.	By Magistrates, Joint, and Assistant Magistrates.	TOTAL.			
69,560	526	1,871	27,420	29,817	208	962	32,935	34,105	5,567	198	6

NORTH-WESTERN PROVINCES.

Under Trial.	CONVICTED.		TOTAL.	ACQUITTED.		TOTAL.	Remaining for Trial.
	By Magistrates.	By Commissioner or Sessions Judge.		By Magistrates.	By Commissioner or Sessions Judge.		
41,208	15,735	1,985	17,720	20,077	1,321	21,398	2,515

FORT ST. GEORGE.

———	Under Trial.	Convicted.	Acquitted.	Under Examination at End of Period.	Referred to other Courts or otherwise disposed of.
Foujdarry Adawlut - - -	731	309	195	189	38
Courts of Circuit - - -	6,284	1,803	2,080	490	1,901
Criminal Courts - - -	31,175	6,425	14,417	2,957	7,376
Magistracy - - - -	9,864	4,046	5,741	77	—
Total - - -	48,054	12,583	22,433	3,713	9,315
District Police - - - -	95,400	30,478	61,296	3,533	93
Village Police - - - -	5,849	3,350	2,545	—	—
Grand Total - - -	149,303	46,411	86,274	7,246	9,408

(continued)

Appendix, No. 3.

BOMBAY.

Under Trial.	CONVICTED. By Sessions Judges and Assistants.	By Magistrates and Assistants.	By Native Authorities.	TOTAL.	ACQUITTED. By Sessions Judges and Assistants.	By Magistrates and Assistants.	By Native Authorities.	TOTAL.	Under Examination at End of Period.
33,945	1,391	5,241	10,261	16,893	692	5,733	9,450	15,875	1,177

N.B.—No return for Foujdarry Adawlut.

CRIMINAL JUSTICE, 1849.

BENGAL.

	Number of Persons under Trial.	Convicted.	Acquitted.	Otherwise Disposed of, or Pending.
By Nizamut Adawlut - - -	621	420	149	52
By Sessions Judges - - - -	4,177	1,839	1,361	977
By Magistrates, Joint, and Assistant Ditto and Native Judges - -	102,043	59,363	35,628	7,052
TOTAL - - -	106,841	61,622	37,138	8,081

NORTH-WESTERN PROVINCES.

	Number of Persons under Trial.	Convicted.	Acquitted.	Otherwise Disposed of, or Pending.
By Nizamut Adawlut - - -	666	552	65	49
By Sessions Judges - - - -	5,254	2,751	1,278	1,225
By Magistrates, Joint, and Assistant Ditto and Native Judges - -	85,463	45,863	32,842	6,758
TOTAL - - -	91,383	49,166	34,185	8,032

FORT ST. GEORGE.

	Number of Persons under Trial.	Convicted.	Acquitted.	Under Examination and otherwise Disposed of.
Foujdarry Adawlut - - - -	207	141	57	9
Sessions Judges - - - - -	2,310	822	1,083	505
Subordinate Judges and Principal Sudder Ameens - - - -	5,960	1,422	2,051	2,487
Sudder Ameens - - - - - -	1,431	764	637	30
District and Village Police and Magistrates - - - - - - -	164,848	50,612	113,074	1,162
TOTAL - - -	174,756	53,761	116,902	4,193

Appendix, No. 3.

BOMBAY.

	Number of Persons under Trial.	Convicted.	Acquitted.	Deaths and Escapes.	Under Examination at End of Period.
By Foujdarry Adawlut - -	209	189	20	—	—
By Sessions Judges - - -	2,338	1,066	878	3	182
By Magistrates and Assistant Magistrates, and District and Village Police - - - -	70,342	29,920	39,706	40	885
TOTAL - - -	72,889	31,175	40,604	43	1,067

CIVIL JUSTICE, 1833-1849.

BENGAL (Lower Provinces.)

—	Pending on 1st January, and Instituted during the Year		Disposed of.		Pending at End of Year		Total Value of Suits and Appeals Depending at End of Year	
	1833.	1849.	1833.	1849.	1833.	1849.	1833.	1849.
							Rs.	Rs.
Sudder Adawlut -	976	668	312	299	598	369	52,79,161	1,07,44,136
Provincial Courts -	1,830	- -	949	- -	350	—		
Zillah and City Judges	50,148	18,119	7,890	3,408	12,959	4,503	- -	35,66,873
Registers - - -	- -	- -	73	- -	10	—	2,71,05,422	
Principal Sudder Ameens	- -	18,578	10,010	10,216	6,366	7,747	- -	7,12,92,901
Sudder Ameens - -	- -	2,827	8,746	1,363	2,562	1,228	- -	6,21,260
Moonsiffs - - -	150,695	1,21,203	95,616	86,676	46,203	31,557	- -	18,30,793
TOTAL - -	203,649	1,61,395	123,596	101,962	69,048	45,404	3,23,84,583	8,81,05,963

NORTH-WESTERN PROVINCES.

—	Pending on 1st January, and Instituted during the Year		Disposed of.		Pending at End of Year		Value of Suits Pending 31 December.	Value of Suits Decided.
	1833.	1849.	1833.	1849.	1833.	1849.	1833.	1849.
							Rs.	Rs.
Sudder Adawlut -	1,756	356	213	207	1,543	149	1,02,26,241	7,77,258
Provincial Courts -	1,863	- -	224	- -	10	—		
Judges - - - -	- -	9,924	- -	3,822	- -	1,979		
Zillah and City Judges	22,919	- -	3,619	- -	6,895	—		
Commissioner, Superintendent Hill States, two Senior Assistants, one Junior Assistant	- -	4,470	- -	2,219	- -	1,206	1,87,60,829	no return.
Principal Sudder Ameens	7,494	8,185	4,028	6,158	2,634	1,735		
Sudder Ameens - -	9,088	13,725	6,132	10,124	1,225	3,389		
Moonsiffs - - -	46,727	71,035	30,986	55,888	13,836	13,083		
TOTAL - -	89,847	1,07,695	45,202	78,418	26,143	21,541	2,89,87,070	—

MADRAS.

——	Pending on 1st January, and Instituted during the Year		Disposed of.		Pending at End of Year		Value of Suits Decided.	
	1833.	1849.	1833.	1849.	1833.	1849.	1833.	1849.
							Rs.	Rs.
Sudder Adawlut -	19	144	10	93	9	51	- -	1,93,712
Provincial Courts -	412	- -	70	- -	317	—	—	—
Judges - - - -	- -	4,438	- -	1,776	- -	2,028	- -	8,22,169
Zillah Courts - -	17,469	- -	7,683	- -	4,506	—	—	—
Agents - - - -	- -	574	- -	83	- -	376	—	—
Subordinate Judges -	- -	3,946	- -	1,920	- -	1,661	- -	3,95,681
							34,04,443	
Principal Sudder Ameens	- -	5,239	- -	2,629	- -	2,426	- -	4,11,322
Assistants to Agents -	- -	455	- -	196	- -	201	—	—
Sudder Ameens and one Town Cauzee - -	- -	18,735	- -	10,679	- -	7,631	- -	8,98,548
Moonsiffs - - - -	- -	85,992	- -	54,310	- -	30,442	- -	17,39,620
District Moonsiffs -	86,394	- -	59,276	- -	26,637	—	—	—
Village ditto - -	9,306	- -	4,769	- -	4,190	—	—	—
TOTAL - -	113,600	119,523	71,808	71,686	35,659	44,816	- -	44,60,452

BOMBAY.

——	Pending on 1st January, and Instituted during the Year		Disposed of.		Pending at End of Year		Value of Suits Decided.	
	1833.	1849.	1833.	1849.	1833.	1849.	1833.	1849.
							Rs.	Rs. a. p.
Sudder Adawlut -	- -	- -	177	110				
Judges - - -	- -	- -	- -	2,395				
Judges and Assistants	- -	- -	2,207	—				
Subordinate Judges -	- -	- -	- -	2,622				
Native Judges and Commissioners - -	- -	- -	42,228	—				
Agents to Assistants -	no return of details		- -	759	no return of details		21,74,360	42,93,446 14 5
Collectors and Sub-collectors - - -	- -	- -	- -	1,651				
Principal Sudder Ameens	- -	- -	- -	6,549				
Sudder Ameens - -	- -	- -	- -	13,755				
Moonsiffs - - -	- -	- -	- -	60,956				
Punchayets - -	- -	- -	31	55				
TOTAL - -	51,136	1,04,737	44,643	88,852	5,363	15,865	—	—

Appendix, No. 4.

ACCOUNT of the Number of OFFICERS and MEN composing the MILITARY FORCE of the Three Presidencies of *India* in each Year, from 1828 to 1851 inclusive, and the Amount of the MILITARY CHARGES of *India* defrayed in each of those Years.

YEAR.	QUEEN'S TROOPS.			EAST INDIA COMPANY'S TROOPS.				GRAND TOTAL.	Military Charges, including Military Buildings.	REMARKS.
	Cavalry.	Infantry.	TOTAL.	Artillery and Engineers.	Cavalry.	Infantry.	TOTAL.		£.	
1828	2,291	17,337	19,628	17,758	21,811	* 199,831	239,400	259,028	8,973,803	- - In 1826 the Army of India had numbered 291,145 men at the close of the war with Burmah, and the Siege of Bhurtpoor. In 1828 the army was in progress of reduction to a peace establishment, and was actually reduced the next year to a lower standard than in 1822-23, the year before the war with Burmah commenced, and eventually, viz. in 1834-35, to a number less by 107,385 than in the year 1826.
1829	2,432	17,716	20,148	17,658	20,182	185,460	222,300	243,448	8,195,796	
1830	2,577	17,731	20,398	18,046	19,962	168,160	203,168	223,476	7,911,882	
1831	2,684	16,922	19,606	18,124	16,174	143,091	177,392	196,998	7,490 ,52	
1832	2,680	16,779	19,459	18,178	15,907	139,424	173,509	192,968	7,292,660	
1833	2,768	16,328	19,116	17,597	15,658	137,745	171,000	190,116	7,323,969	
1834	2,631	15,410	18,041	17,312	15,582	136,931	169,825	187,866	7,240,041	
1835	2,720	14,959	17,679	17,505	15,324	133,252	166,081	183,760	7,041,162	
1836	2,724	15,936	18,660	17,423	15,389	134,567	167,379	186,039	6,847,096	
1837	2,618	15,906	18,524	17,213	15,491	135,303	168,007	186,531	6,885,851	
1838	2,530	15,025	17,555	16,941	15,446	135,364	167,751	185,306	7,141,439	- - On two occasions in the year 1838, ten men per company were added to the Bengal Native Infantry, and in 1839 one company to each regiment, the whole occasioning an increase of about 19,000 men. The movements on Affghanistan occasioned a large increase of Military Establishment and war charge. A further amount of expense, partly consisting of the pay of troops, was charged in the political department, as connected with the restoration of Shah Shoojah, from 1839 to 1842.
1839	2,574	14,771	17,345	16,432	15,850	157,513	189,795	207,140	7,607,514	
1840	2,793	17,424	20,217	16,819	19,111	179,296	215,226	235,443	8,454,208	
1841	2,981	18,924	21,905	16,580	21,178	191,359	229,117	251,022	9,006,433	- - At the close of the year 1841 the disaster befel the force at Cabool, and the army was augmented in consequence. Six Queen's regiments were sent to India in 1842, and the strength of those in India was increased. One company was added to each native regiment, occasioning an increase of 7,400 natives.
1842	2,939	21,214	24,153	16,490	21,819	192,275	230,584	254,737	9,193,745	
1843	3,538	25,090	28,628	16,556	22,701	199,788	239,045	267,673	9,562,524	
1844	3,578	24,782	28,360	17,493	22,795	194,172	234,460	262,820	9,558,306	- - In this year the military charges were increased by the formation of an army of observation on the north-west frontier, the rupture with the State of Gwalior, and the operations in Scinde.
1845	3,536	24,749	28,285	17,868	23,217	217,051	258,136	286,421	9,634,985	The irruption of the Sikhs in the first war with that power, occurred in this year.
1846	3,142	23,319	26,461	18,166	23,953	216,090	258,209	284,670	10,384,249	- - Peace with the Lahore State was signed on 11 March 1846. During that year eight regiments of irregular cavalry were added to the Bengal army, and one more in 1847.
1847	3,518	23,436	26,954	18,560	30,027	215,655	264,842	91,796	10,598,016	
1848	3,623	21,283	24,906	18,944	28,248	193,063	240,235	265,161	299,32,209	- - The reduction of number here shown was occasioned by the partial return to a peace establishment.
1849	3,464	23,770	27,234	19,089	28,157	202,543	249,789	277,023	10,739,647	- - The Queen's troops and the Bengal army which had been reduced after the peace with Lahore were again augmented towards the close of 1848 to meet the rebellion in Mooltan and the hostile movements of the Sikhs. The military buildings required in the Punjab also increased the amount of military charge in the later years.
1850	3,553	25,828	29,381	19,1 1	27,891	201,355	248,347	277,728	10,098,926	
1851	3,664	25,816	29,480	19,009	31,320	209,720	260,049	289,529	10,180,615	- - Four corps of Sikh local infantry, and a corps of guides, raised in 1847, are first brought upon the Returns of the Bengal army in April 1851, and five regiments of Punjab cavalry, and five regiments of Punjab infantry, raised in 1849, are first entered in those Returns at the same date, and together occasion the increase here shown.

* *Note.*—The Medical Establishment and Warrant Officers are included under this head.

East India House, 15 March 1853.

(Errors excepted.)

James C. Melvill.

Appendix, No. 5.

Appendix, No. 5.

STATEMENT of the NAMES of the DISTRICTS in *India* coming under the denomination of "Non-Regulation."

Under the Authority of the Government of *Bengal*.

Cis Sutlej - - - -
- Umballah.
- Loodiana, including Wudin.
- Kythul and Ladwa.
- Ferozepore.
- Territory lately belonging to Seik chiefs who have been reduced to the condition of British subjects in consequence of non-performance of feudatory obligations during Lahore war.

North-East Frontier (Assam)
- Cossya Hills.
- Cachar.
- Camroop.
- Nowgong.
- Durrung.
- Ivorhat (Subpoor).
- Luckimpoor.
- Sudiya, including Muttuck.

Goalpara.
Darjeeling.
Arracan.
Tenasserim Provinces.

South-West Frontier - -
- Sumbulpore.
- Ramgurh or Hazareebagh.
- Lohurdugga: Chota Nagpore. Palamou.
- Singbhoom.
- Maunbhoom: Pachete. Barabhoom.

The Punjab, inclusive of the Julundur Doab and Koloo Territory.
The Sunderbunds.

Under the Authority of the Government of the North-West Provinces.

Saugor and Nerbudda - -
- Jalvun and the Pergunnahs, ceded by Jhansi.
- Saugor.
- Jubbulpoor.
- Hoshungabad.
- Seonee.
- Dumoh.
- Nursingpore.
- Baitool.

The Butty Territory, including Wuttoo.
Pergunnah of Kote Kasim.
Jaunsar and Barvin.
Dehrah Doon.
Kumaon, including Ghurwal.
Ajmeer.
British Mhairwarra.
British Nimaur.

Appendix, No. 5.

Under the Authority of the Government of *Madras.*

Ganjam.
Vizagapatam.
Kurnool.

Under the Authority of the Government of *Bombay.*

Sinde - - - - - - { Shikapore. Hydrabad. Kurrachee. }
Sattara.

Note.—In 1846 it was deemed expedient to exempt from the jurisdiction of the civi l and criminal courts of the Bombay Presidency certain portions of the collectorates of Candeish and Ahmeduuggur. To effect this object, Act XI. of 1846 was passed.

Statistical Office, East India House,
17 March 1853.

Edwd Thornton.

Appendix, No. 6.

Appendix, No. 6.

PAPER delivered in by *David Hill,* Esq., 10 March 1853.

COMPARATIVE TABLE of CAUSES instituted in the late COURT OF REQUESTS from May to September 1849, and in the COURT of SMALL CAUSES from May to September 1850.

	May		June		July		August		September		TOTAL.	
	1849.	1850.	1849.	1850.	1849.	1850.	1849.	1850.	1849.	1850.	1849.	1850.
Judgments for Plaintiffs -	581	398	541	655	634	906	697	693	211	597	1,672	1,044
Ditto - - Defendants -	56	50	48	72	52	78	51	93	17	41	1,496	1,533
Nonsuited - - - - -	259	255	247	267	287	551	312	497	139	433	1,782	2,361
Compromised - - -	775	340	655	533	793	825	930	763	416	722	2,093	2,047
Undecided - - - -	1	1	5	6	16	1	103	1	279	290	1,062	2,083
TOTAL Number of Suits -	1,672	1,044	1,496	1,533	1,782	2,361	2,093	2,047	1,062	2,083	8,105	9,068

RETURN of CAUSES instituted in the COURT OF SMALL CAUSES from May to September 1850.

—	Not above 10 *Rs.*	Above 10 *Rs.*, not above 20 *Rs.*	Above 20 *Rs.*, not above 50 *Rs.*	Above 50 *Rs.*, not above 100 *Rs.*	Above 100 *Rs.*, not above 200 *Rs.*	Above 200 *Rs.*, not above 300 *Rs.*	Above 300 *Rs.*, not above 400 *Rs.*	Above 400 *Rs.*, not above 500 *Rs.*	Undecided.	TOTAL of each.	GRAND TOTAL.
May - 1850	580	176	152	62	41	17	9	6	1	1,044	
June - „	866	285	209	83	56	17	2	9	6	1,533	
July - „	1,526	391	260	92	53	19	10	9	1	2,361	
Aug. - „	1,307	344	273	57	42	13	8	2	1	2,047	
Sept. - „	1,209	297	183	53	33	10	7	1	290	2,083	
TOTAL -	5,488	1,493	1,077	347	225	76	36	27	299	- -	9,068

Appendix, No. 7.

Appendix, No. 7.

LIST of PETITIONS referred to the Select Committee on INDIAN TERRITORIES, Session 1852–53.

PRESENTED.	PETITIONERS.	PRAYER.
17 November 1852 - -	- - Ministers and missionaries resident in Calcutta.	- - For inquiry into the social condition of the people.
19 November „ - -	Charles Hay Cameron - -	- - For inquiry as to the propriety of adopting the recommendations of the Commission of 1834.
11 February „ - -	Mahomedans of Bombay - -	- - For alteration of the system in the Bombay Court of Judicature, in cases of inheritance, marriage, &c.
11 February „ - -	Sheik Ahmed Cubbay - -	- - Suggesting measures to increase the welfare of the inhabitants.
14 February „ - -	Col. W. H. Frith - - -	- - For inquiry into the claim of his late father.
14 February „ - -	John Sullivan - - - -	- - Complaining of the intended annexation of the territories of native princes dying without natural heirs.
24 February 1853 - -	- - Hindoo inhabitants of Bengal, Behar and Orissa.	- - For preserving to the Hindoos their ancient religion and customs.
24 February „ - -	- - Retired servants of the Company, merchants and others.	- - That the right of choosing Directors might be granted to holders of the securities.
25 February „ - -	Proprietors of East India Stock -	- - For a tribunal to determine the claims of persons pretending to be heirs to native states.
28 February „ - -	- - Ministers of the Gospel in Western India.	- - For the adoption of measures for the intellectual, moral and religious well-being of India.
22 February „ - - (referred March 1.)	Madras - - - - - -	- - For inquiry into the condition and government of British India.
3 March „ - -	John Epps, M. D. - - - -	For justice to the ex-Rajah of Coorg.
3 March „ - -	Rungo Bapojee - - - -	For the restoration of Sharoo Mahareij.
10 March „ - -	Presidency of Bombay - -	- - Suggesting improvements in the administration of affairs, and praying for inquiry.
14 March „ - -	- - British and other Christian inhabitants of Calcutta, &c.	- - Suggesting ameliorations and reforms in the future government, and praying for inquiry.
11 April „ - -	- - Master Cutler and Cutlers' Company of Sheffield and Hallamshire.	- - For adoption of certain suggestions for the future government of India.
12 April „ - -	- - Chairman of the Leeds Chamber of Commerce.	- - Suggesting improvements in any legislation for the future government of India.
18 April „ - -	Sheffield - - - - - }	- - For inquiry into the subject of reform in the government prior to legislation.
18 April „ - -	Sunderland - - - - }	(same)
18 April „ - -	- - Members of the British India Association, and other inhabitants of Bengal.	- - Suggesting arrangements in the future government of India.
18 April „ - -	Armenian inhabitants of Bengal -	- - For securing the full benefits of the contract, on the faith of which they became settlers.
20 April „ - -	- - President and members of the Blackburn Commercial Association.	- - For inquiring into certain measures of reform for the future government.
21 April „ - -	Charles Hay Cameron - -	- - For the adoption of a system of education for the natives of India.
25 April „ - -	- - Chairman of a Meeting at Manchester.	- - For the reform of the Home Government of India.
29 April „ - -	Frederick Henry Lindsay - -	- - For a tribunal to investigate his claims in any future legislation for the Government of India.

The PETITION of the undersigned Ministers and Missionaries resident in Calcutta,

Humbly showeth,

THAT your petitioners are deeply interested in the welfare of the people of India; that they have been attentive observers of their social condition; and that they have devoted much labour to the work of their conversion from the service of dumb idols to the worship of the one living and true God.

That

That your petitioners observe with anxious attention the deliberations of the British Parliament on all subjects connected with India; and more especially now, when the charter of the East India Company is under consideration, they await the result with the most earnest desire that your Honourable House may be guided by wisdom from above, and may be led to the adoption of measures that will augment at once the power and the honour of the British nation, and the welfare and happiness of this great country.

That early in the present year some of your petitioners transmitted to both Houses of Parliament petitions praying that measures might be taken to ascertain the exact nature and extent of the connexion still subsisting between the Government of India and the Hindu and Mahomedan religions, and to dissolve and extinguish that connexion completely and for ever.

That the petitioners also, in the said petitions, called attention to a despatch of the Court of Directors in 1847, forbidding their servants to take part in missionary undertakings, and praying for a copy of that document.

That your petitioners feel much anxiety on these points, and earnestly pray that your Honourable House will direct your attention to them.

That some of your petitioners have recently addressed a memorial to the Governor-general of India in Council, praying that a certain draft Act for the final discontinuance of the grant which hitherto has been made annually by the Government of India to the Temple of Jagannáth at Púri may be passed into a law, and declaring the conviction of the said petitioners that no compensation whatever, in law or in equity, is due to that temple, and praying, therefore, that none may be paid.

That your petitioners await the result of that memorial with anxious expectation, having long and deeply mourned over the support by the Government of India of a shrine which for many ages has been the scene of gross idolatry and indescribable misery; and your petitioners pray that no final measures may be adopted for the renewal of the powers of the East India Company till effectual steps have been taken to remove that scandal, as well as to secure the complete separation of the Company's Government from the Hindu and Mahomedan religions, in all the various circumstances wherein there still subsists any direct or indirect connexion between them.

That your petitioners desire to call the attention of your Honourable House to other points that affect the interests of India, especially in the Presidency of Bengal, wherein your petitioners reside and labour.

That your petitioners have reason to believe that there is a vast amount of social disorganization, and of consequent suffering, in the whole country. Much of this your petitioners can trace to the fearful superstition of the people, to their ignorance, and to the debasing effects of a popular mythology, which presents as objects of worship deities who are examples of every vice, and which ascribes sanctity and divine honour to a priesthood which is the principal curse of India. But, speaking particularly of this great Presidency of Bengal, your petitioners would represent to your Honourable House the existence of evils which it falls properly within the scope of Government to meet and to control. The evils resulting from the religions of the country your petitioners believe to have been greatly diminished since the commencement of Christian missions; and they willingly accord to the Government of India the praise of having abolished satis, and checked infanticide, thuggism, and the once prevalent practice of self-immolation. Your petitioners do not now hear of the terrible occurrences with which their predecessors were familiar, of women drowning themselves publicly at the junction of the Ganges and the Jumna; of others sitting in pits to be smothered by heavy baskets of sand; and of devotees yielding themselves to death in the presence of multitudes, by means which require the active participation of heartless accessaries. A more just apprehension of their duty by the judicial officers of Government has restrained such suicides, by dealing with the accessaries as guilty of murder; and the enactment of several wise and salutary laws has restrained the other classes of crimes which your petitioners have mentioned. Your petitioners believe, however, that these results must in a large measure be ascribed to the growing influence of Christian missions, which have been blessed no less in raising the standard of piety and justice among the Europeans in India, than in the enlightenment of the consciences of the natives. But there are other evils with which the Government, as such, has to contend, and which your petitioners regret to declare appear to be on the increase. Your petitioners greatly fear that it will be found on inquiry that in many districts of Bengal neither life nor property are secure; that gang robberies of the most daring character are perpetrated annually in great numbers with impunity; and that there are constant scenes of violence in contentions respecting disputed boundaries between the owners of landed estates.

That your petitioners submit to your Honourable House that the radical cause of both these evils is the inefficiency of the police and the judicial system. Your petitioners find that the sole protection of the public peace in many places is a body of policemen (called village chowkedars), who are in fact the ministers of the most powerful of their neighbours, rather than the protectors of the people. The body of peace-officers appointed and paid directly by the State will, on inquiry, be found to be entirely insufficient for the great districts for which they are provided; but, few as they are, they also will be found to be oppressors of the people. The records of the criminal courts, and the experience of every resident in the districts of Bengal, will bear testimony to the facts that no confidence can be placed in the police force (either the regular force or the village chowkedars); that it is their

Appendix, No. 7.

their practice to extort confessions by torture; and that while they are powerless to resist the gangs of organized burglars or dacoits, they are corrupt enough to connive at their atrocities.

That your petitioners believe that a strict and searching inquiry into the state of the rural population of Bengal would lead your Honourable House to the conclusion that they commonly live in a state of poverty and wretchedness, produced chiefly by the present system of landed tenures, and the extortion of the zemindars, aggravated by the inefficiency and the cruelties of the peace-officers, who are paid by the chowkedarry tax or by the Government.

That your petitioners believe that a well-organized police, with a more extensive and more effectual judicial system, would do much to check the outrages that arise from disputes about land. But your petitioners must also ascribe much of the evil which these outrages produce to the causes by which primarily such disputes are occasioned. Your petitioners must declare, that from the want of a complete survey of the estates of the country, of a Registration Act to settle titles, and of laws to obviate the infinite mischief of the universal system of secret trusts, there is so much uncertainty about the landed tenures and boundaries in Bengal, that capitalists generally dread to purchase such property, and those who do, too frequently keep bodies of clubmen to take and keep by force the extent of land to which they deem themselves entitled. Between contending proprietors, amidst scenes of constant conflict, and a prey to the corruption and the oppression of the police, the tenant is reduced not merely to beggary, but also, in many cases, to a state of the most abject and pitiable servitude.

That your petitioners attribute many of the evils that exist in this Presidency to the fact that (unlike the other Presidencies of India) it has no separate governor. While the North-western Provinces, during the past eight years, have enjoyed the benefit of the rule of the same able and experienced governor, the Presidency of Bengal in the same period has had eight successive changes of rulers; and in every case, whether the Governor-general or the Deputy-Governor was, for the time being, ruler of the land, he has been encumbered also with other and weighty duties, as a member of the Supreme Council of India.

That your petitioners attribute also to the want of a separate governor for this Presidency the fact, that while much has been done in judicious and beneficial public works in the North-western Provinces and the Madras Presidency, and very recently also in the Punjaub, this great Presidency, which contains 35,000,000 of people, and yields nearly half of the entire revenue of India, has been very greatly neglected, and cannot be said now to have more than one good road of any considerable extent; while a vast portion of the country remains altogether untraversed and uninvestigated, and, in fact, never has been visited by any of the Governors of Bengal from the day when the Company first obtained the Dewanny.

That your petitioners believe that justice calls for a separate Government for Bengal; and in order to render it as effective as possible, your petitioners submit that the limits of the Presidency should be curtailed, and that Arracan and the Tenasserim provinces, with Penang and Singapore, might be formed into a separate Presidency.

That there are many measures to which your petitioners would desire the attention of your Honourable House to be directed in connexion with the Government of Bengal. The principal of these your petitioners beg leave to submit as follows:

1. The appointment for the Presidency of Bengal of a separate governor, who shall be relieved of all share in the general Government of India.

2. The entire and thorough reform of the police, by consolidating the village or zemindarry chowkedars and the Government police, and the placing all under active, trustworthy, and efficient superintendence. Your petitioners believe that it is difficult to over-estimate the importance of a comprehensive, enlightened, and benevolent settlement of this subject, so that a police force, worthy of the British Government, and under the direct control of confidential and efficient officers, may at length be provided for this country.

3. The summary and severe punishment of perjury and forgery immediately on their detection, in judicial proceedings. Your petitioners regard a measure of this kind as one of the chief wants of this country, for perjury has almost ceased to be regarded as morally wrong; it constitutes the stock-in-trade by which numerous witnesses for hire subsist. The impunity and success with which systematic perjury, and the forgery of documents, are commonly practised, tend to encourage the already too prevalent habits of falsehood and deception among the great body of the people, and as a necessary consequence justice is now constantly mocked and defeated, or the powers of the law are used, without remorse, as engines of oppression and extortion, through the infamous arts of the traders in corrupt litigation.

4. The reduction of the size of the judicial districts, in which, at present, the chief station is commonly so far removed from the greater number of the towns and villages, that justice, in many instances, is practically denied, and in a very large number of others is obtained under difficulties and discouragements, and at a loss of time and money, that render every connexion with judicial proceedings a heavy calamity, alike to the suitors and the witnesses. Your petitioners believe that careful inquiry would prove that many persons of various ranks throughout the country are enabled by their distance from the seat of justice to set the law at defiance, and that the great expense of carrying witnesses so far, and of supporting them while detained, is one of the chief temptations that lead to the employment of the mercenary perjurers who infest every court and judicial station.

5. The

5. The increase of the number of judicial officers, and their suitable and satisfactory preparation for the important task of administering justice, so that the law may be administered in every district on a uniform system, and on just, definite, and intelligible principles. Appendix, No. 7.

6. The institution of all criminal suits on *vivâ voce* applications only; and the administration of justice on *vivâ voce* evidence only, to be taken by the judge or magistrate in person. Your petitioners admit that to a certain extent justice is already thus administered; but to a very great extent written depositions, taken down and read to the officiating officer by venal men, are used in the mofussil courts; and this practice, your petitioners submit, leads to much uncertainty, to constant misunderstandings, and great injustice; while, at the same time, it deprives the courts of the well-known advantages of personal conference with the witnesses in the presence of the parties.

7. A careful and complete survey of the country, to fix the boundaries of the villages and landed estates; and a renewal of the survey wherever the encroachments of the rivers, or other causes, render it desirable.

8. An Act for the registration of titles and deeds relating to land, carried out in a comprehensive and liberal spirit.

9. An Act to check the prevalent system of secret trusts, commonly called benamee transactions. The evils which a measure of this kind would meet are so extensive in this country as to become a marked peculiarity in its social system. Among these evils the prevalence of litigation and frauds on creditors are notorious; but other evils, of a less obvious though not less serious nature, will on inquiry be found to arise from the benamee system.

10. A measure to encourage capitalists of enterprise and public spirit to purchase land, and also to encourage smaller holders to raise themselves to the position of independent freeholders, by providing such means as shall be just and equitable alike to the State and to the purchasers, for the permanent redemption or commutation of the present land-tax.

11. A measure for the promotion throughout the whole country of a cheap elementary system of vernacular education, and the removal of all restriction on the Christian teachers in any of the Government schools and colleges, affording instruction in Christianity when it is sought by the pupils.

12. The periodical publication of full and clear statistical comparative returns of the population, resources, and progress of this Presidency.

13. The prohibition by law of the public barbarities which accompany the Churruck Pujá, and also the prohibition of every other public exhibition of fanaticism, whereby the moral sense of the community is debased and ruined, and human life is endangered.

14. The regulation of the practice of carrying sick persons from their houses to the river's bank, with the view of preventing the abuse of the popular superstition into a means of hastening death in fatal diseases, and rendering it inevitable in the case of any whose diseases are not of that character.

15. The introduction of a system of general visitation of the Presidency by the Governor for the time being, so that he may become closely and intimately acquainted with the qualifications of the subordinate officers of Government, with the general administration of public affairs, with the local wants and feelings of the people, and with the progress of the public works.

16. The extension of the means of internal communication by the increase and improvement of roads, and of the postal arrangements throughout the country. Your petitioners believe that few things would tend more rapidly to the social improvement of the country than the increase of the means of intercourse and communication.

17. The liberal encouragement of all public works which are calculated to develope and improve the resources and trade of the country. Your petitioners submit that such encouragement is very much needed, and as a proof they beg to state, that even in the immediate vicinity of Calcutta, the two canals by which, during eight months of the year, the great majority of boats leave or approach the commercial capital of India, are utterly inadequate to the immense traffic of which they are the channels. Your petitioners also apprehend that inquiry will prove that the resources of some districts are at present almost entirely lost and wasted, through the want of public works that would give vent to the industry of the inhabitants and the products of the soil.

18. The complete and absolute severance of the Government of India from all connexion, direct or indirect, with the Hindu and Mahomedan religions.

That your petitioners believe that from these measures, together with the constant operation on the Government of India of public opinion, and of the vigilance of the Parliament in Great Britain, results the most important and desirable might speedily be secured.

That your petitioners submit to your Honourable House that it is the paramount duty of the Government of India to promote the highest interests of the people committed to their care, and that all measures whereby revenue is raised to the detriment of the public morals is a violation of this duty.

 That

Appendix, No. 7.

That your petitioners fear that on inquiry it will be found that the abkaree system, for the regulation of the sale of wines, spirits, and drugs, has in practical operation tended to foster among a people, whose highest commendation was temperance, a ruinous taste for ardent spirits and destructive drugs, by the efforts made to establish licensed new depôts for them, in places where the use of such things was little or not at all known before; and your petitioners therefore pray that your Honourable House will inquire into this matter, with a view to the abkaree system proving a check rather than an encouragement to the use of intoxicating drugs and spirits.

That your petitioners observe with much regret the continuance of the East India Company's extensive trade in opium. Your petitioners view the traffic carried on with China in this contraband drug as second only to the slave-trade in iniquity, and they regard the collection of a great revenue from the opium monopoly by the East India Company, under the sanction of the British Legislature, as a breach of faith with the Chinese Government, and as an odious participation in a guilty and ruinous trade, which they view with amazement and abhorrence.

That your petitioners earnestly desire to see the Government of India relieved from the fearful responsibility of raising revenue by providing annually an enormous quantity of a drug, which is notoriously purchased and shipped to China under British sanction, to gratify the morbid craving of multitudes of infatuated people for its enervating and fatal poison.

That your petitioners submit that good faith with the Government of China, and common humanity to the unhappy myriads who annually ruin their health and destroy their lives by opium in China, should lead the British Government in India, as well as in the China Seas, to check and to repress the wicked traffic by which the drug is supplied for the market in Bombay and in Calcutta, and is then shipped to and clandestinely sold as contraband in China.

That your petitioners are ready to acknowledge that there has been a great improvement in the spirit and measures of the Government of India since the Charter of 1813 was granted; but your petitioners have felt it to be their duty to bear testimony to the existing state and wants of Bengal, and they submit to your Honourable House that to secure the continuance and increase of the zeal of the East India Company for the improvement of this country, it would be better to limit the period of their powers to a shorter period than twenty years, so that the manner in which they have been exercised may again speedily come under review.

That your petitioners fear that the present year has been marked by so many unexpected public events, and by so much political excitement respecting the state of parties and the future policy of Government in Great Britain, that the subject of the East India Company's Charter has not been investigated so deeply as it would have been by your Honourable House in a period of greater public tranquillity; and your petitioners submit that this is another reason of much force and importance for the limitation of the Charter now contemplated to a period less than twenty years.

That your petitioners further submit to your Honourable House that it would be wise and expedient to make such changes in the home government of India as would tend to secure the services of persons who had gained local experience; and further to provide that in the distribution of the valuable patronage of the East India Company, a large part should be reserved for the reward and encouragement of superior and eminent talent and industry in the principal schools and colleges of Great Britain.

That your petitioners thankfully assure your Honourable House that they have been abundantly encouraged in their own efforts to improve the condition of India, and that the whole Protestant mission in the country have been favoured with many and remarkable tokens of the Divine blessing. Your petitioners beg permission to inform your Honourable House, that at the present time the number of ordained Protestant missionaries in India exceeds 400, and that they have gathered into the visible Church of Christ 103,000 converts; that they are receiving the aid of 551 native preachers, have upwards of 300 native churches, 1,340 vernacular day-schools, 73 boarding-schools, and 120 English day-schools, besides upwards of 440 day-schools for native girls; that the complete Bible has been translated into 10 of the languages of India, and the New Testament into five more; that a very considerable vernacular Christian literature has already been provided for the people; and that a spirit of inquiry, a desire for education, and a general feeling of respect for Christianity and for Christian teachers, have been excited in all the spheres of the missions.

Your petitioners deeply deplore the inadequacy of their numbers, and the partial extent to which zeal for the conversion of the heathen is manifested in Great Britain, and they earnestly and constantly implore the Lord of the harvest to awaken a wider and more affecting sense of India's destitution among all who profess and call themselves Christians; but, at the same time, they are bound to record with devout thankfulness the progress that has been made, and they anticipate with confidence increasing proofs that the ancient systems of superstition are fast crumbling away, and that the day is approaching when the light of the Gospel of Christ will bless all the families of this country.

Your petitioners gratefully record the passing of an Act by the Government of India in 1850, whereby the rights of native Christians are secured; but they regret that this and other measures of equal simplicity and justice were obtained only after great and harassing delays, and they now have to lament over the continuance of other evils which a more just, prompt

prompt and vigorous administration of public affairs might long since have removed, and the removal of which might have tended greatly to the improvement of the condition of the people, and their willingness to consider the Gospel, as well as to that independence and strength of mind and character which the profession of a new religion in scenes of ancient idolatry and superstition especially requires.

That your petitioners are deeply impressed with a solemn conviction that this great and populous country has been entrusted as a sacred charge and stewardship to the Government of Great Britain; that the hand of God was never more visible in the history of nations than it has been in the progress of British power in India; and that every consideration of interest and duty should combine to secure from the British Legislature every measure that is calculated to elevate and improve the class of its rulers, and its judicial and ministerial officers. The influence of India on the whole continent of Asia, your petitioners believe, has already been remarkably powerful and extensive; and that influence, if the country be governed in an enlarged spirit of wisdom and benevolence, and if the blessing of the God of nations rest on the efforts alike of the Government and of the preachers of the everlasting Gospel of peace, may ultimately prove the immediate cause of that great and universal change in the whole social and religious state of this continent, with its vast population of more than half mankind, which the Scriptures of truth lead the Church of Christ confidently to expect. Your petitioners therefore regard the present time, when the subject of the Government of India is under the consideration of your Honourable House, as a period of momentous importance; and they earnestly implore that your Honourable House may be so guided by the Spirit of the Lord into wise and righteous conclusions, that generations yet unborn may celebrate with thankfulness and joy this era in the annals of the British empire.

Finally, your petitioners earnestly pray that your Honourable House will be pleased to consider the premises; to apply to the subject of the government, and to the moral, social, and religious condition of India, and to her material resources and political difficulties, the most comprehensive, minute, and searching scrutiny; and, finally, to pass such measures as shall redound to the honour and glory of God, as well as to the happiness and prosperity of the people whom He has given to the dominion of Great Britain.

W. S. Mackay,
Missionary of the Free Church of Scotland.
D. Ewart,
Missionary of the Free Church of Scotland.
Jno. Smith,
Missionary of the Free Church of Scotland.
&c. &c. &c.

The Humble Petition of *Charles Hay Cameron*, late Fourth Member of the Council of India, President of the Indian Law Commission, and of the Council of Education for Bengal,

Humbly showeth,

That your petitioner was appointed a member of the Indian Law Commission in the year 1834, and continued in that body as member or president until the year 1848.

That in the course of the years intervening between 1834 and 1848 the Law Commission sketched out a system of law and of judicial establishments and procedure for British India, whereof the following parts have been fully elaborated, and reduced into the form of Acts of the Indian Legislature:

A penal code.
A plan of a model criminal court.
A plan of criminal procedure.
A plan of a model civil court, and of civil procedure.
A plan for the abolition of the Recorder's Court in the Straits of Malacca, and for the constitution of an improved judicature there.
A law of prescription and limitation.
A *lex loci* for British India.

That, so far as your petitioner knows, the home authorities have not felt themselves in a condition to pronounce a decision upon any one of the above propositions, except the plan of a model civil court and civil procedure.

That, so far as your petitioner knows, the Legislature of India has not felt itself competent to pronounce a decision upon any one of the above propositions.

That in the reports by which the Law Commissioners explained and justified the propositions above enumerated, and in various other reports, they have discussed a great number of important questions of jurisprudence.

The fusion of law and equity.
Special pleading.
Appellate judicature.

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Small cause judicature, and its fusion with general judicature.
The jury, or the association of the public with the business of judicature.
The training of candidates for the judicial office.

That the labours of the Law Commission, which, whatever may be their intrinsic value, have cost a great deal of public money, will, as your petitioner apprehends, be lost to the people of India, and that the similar labours of any persons who may be appointed to complete the task imposed upon the Law Commission by Parliament, in the Statute 3 & 4 Will. 4, c. 85, ss. 43 to 55, will in like manner be lost to the people of India, unless they should be referred to competent jurists, who may decide upon their merits.

That your petitioner has lately read in the Minutes of Evidence taken by the Select Committee of the House of Lords, appointed last Session to inquire into the operation of the Act 3 & 4 Will. 4, c. 85, for the better Government of Her Majesty's Indian Territories, the evidence of David Hill, Esq., examiner in the judicial department at the India House.

That in the said evidence is to be found the following passage, which seems to be confirmatory of your petitioner's statements:

"They (the Home Government) have little means of revising the legislative proceedings of the Indian Government, where a decision has been arrived at by the Governor-general, with his Indian councillors, and the fourth member of council, as well as by the Law Commission, consisting of the best men who could be selected to consider such a subject. There is no authority, either at the India House or the India Board, or anywhere else, to whom the case could be submitted for a higher opinion. It would be a reference from a higher authority to a lower, to ask any one else to pass judgment upon what has already been under the deliberate consideration of such men as Mr. Macaulay, Mr. Cameron, Mr. Macleod, and afterwards under that of the Governor-general and his colleagues. There are no means of revising it. Indeed there are no means of revising ordinary acts of the Indian Legislature. There is a power of disallowance given to the home authorities, but that has respect to the general effect of a law."

Your petitioner therefore prays,

That the above-mentioned propositions and discussions of the Law Commission may be submitted to the consideration of competent jurists, who may decide whether the recommendations of the said Commission are or are not fit to be adopted.

And your petitioner will ever pray.

C. H. Cameron.

15 November 1852.

The Humble Petition of certain Mahomedan Inhabitants of Bombay,

Showeth,

That your petitioners are of Bombay Mahomedan inhabitants, many of them for several generations, and others since the alienation and transfer of the island from the Portuguese Government to the renowned throne and paternal care of Great Britain. At the time of such transfer Bombay was, comparatively speaking, in a miserable condition and thinly populated; whereas now, under the fostering care of the British Government, it has risen gradually to its present eminence, and become the chief port and commercial city of Western India, containing a population of at least 500,000 souls, of whom one-fifth are Mahomedans. Such a great and beneficial change in the condition of any country cannot but reflect the highest credit on its rulers, to whom, under Providence, all its blessings and comforts are mainly due.

Your petitioners are Mahomedans, belonging chiefly to the "Sháfaí and Hanafí sects," whose creed it is to believe in one God, and the holy prophet Mahomed; may the blessing of God continually rest upon him, the selected and last prophet. We also believe his four Khalifs and their regular successors, as we are enjoined to believe; your petitioners are called "Sunnies" and "Ahla Sunnat Jummat." This subject is fully explained in the preliminary discourse to "Sale's Koran," wherein he gives a detailed account of the four orthodox Mahomedan sects, "Hanafí, Sháfaí, Malakí, and Humbalí," prevailing throughout the world. A reference to that discourse, and also to that mentioned at the beginning of the first volume of Hamilton's translation of "Hidayah," will fully explain the whole subject. That when your petitioners enjoyed the benefit of the late Recorder's Court in Bombay, cases between Mahomedan plaintiffs and defendants, having reference to matters of inheritance, marriage, divorce, wills, gifts, &c., were invariably decided in strict accordance with the laws of the "Koran" laid down in the Mahomedan law books. Matters, however, have altered since the introduction of Her Majesty's* Supreme Court of Judicature at the Presidency; both the

* The Charter and Act 37 Geo. 3, c. 142, 1842, decreed that suits of inheritance should be determined, in the case of Mahomedan, according to the Mahomedan law and usage; the inference plainly is, Mahomedan usage, not Hindu or infidel usage.

the appointment of Mahomedan and Hindoo law officers have been abolished, and in several cases it now frequently occurs that a correct explanation of those laws is not made to the Court.

As a case in point, your petitioners would refer to the following particulars. In 1846, a case of disputed inheritance arose amongst one of the various Sunní sects, commonly known and called by the style of "Cutchy Memon," who were undoubtedly Sunnies of the Hanafí sect, performing the religious rites of worship, fasting, pilgrimage, building mosques, &c., in common with the usages in force amongst your petitioners. In that case the widow, to whom our holy Koran * has specifically defined one-fourth of her husband's estate, he having left no issue, and property to a large amount, applied to the heads of her castes for her lawful share. On their declining to recognise her rights, she filed a bill in 1845 in the Supreme Court. The defendants being the male party, and in possession of the large property left by the deceased, pleaded to the said bill, setting forth that they were Kutchy Memons, formerly of the Lowána infidel caste, that they were converted to Mahomedanism about 300 years ago, and that although they are now perfect Mahomedans, yet they retain their ancestral custom of depriving their females, mothers, daughters, sisters, widows, of any inheritance of the property of their respective relatives deceased. The complainant remonstrated with them upon the inconsistency and heresy of such a plea; for after that their forefathers had become Mahomedans, their descendants also became Mahomedans, and swore by the Koran, they had no right whatsoever to claim the privilege of the customs of their infidelity. Their duty plainly was to obey and follow the Mahomedan law of the Koran, in which sacred book it is distinctly laid down, "Whoso judgeth not according to what God hath revealed, they are infidels." It was further urged that the holy Koran instructed that men ought to have a part of what their parents and kindred leave behind them when they die, and women also ought to have a part of what their parents and kindred leave. This law was given to abolish a custom of the Pagan Arabs, who suffered not women or children to have any part of the husband's or father's inheritance, on pretence that they only should inherit who were able to go to war. But all argument was of no avail; the defendants stoutly refused to give the widow any share, insisting upon their ancestral custom; and at length issue was joined in this case, and the matter came on for hearing before the Court.

In due form of law the case was heard publicly, and the defendants being influential persons, and in possession of the immense wealth of the deceased, caused certain insignificant and illiterate persons to be set up as the Mookuddums of the caste, in order to prove their alleged customs, and these persons having adduced their witnesses to support their infidel views, they declared, that though they were Mahomedans, yet, in respect of the laws of inheritance, and giving a share to females, they do not obey the laws of the Koran, differing in this respect from its precepts, their females invariably being excluded from all participation in any property left behind them by their kindred.

Upon such evidence, the Court, without the least regard to the written law of the Koran and other Mahomedan law books, allowed the said alleged infidel custom to control and abrogate the holy law of the Koran, the production of other law texts from Sale's translation of the Koran, the translation of "Mishka't Shariff," or that of "Shirajea," by Sir W. Jones, and from Sir W. Macnaghten, distinctly declares, "that usage, legally speaking, is always inoperative in opposition to that which is sanctioned by law;" and yet an alleged custom, admitted on all hands to be in direct opposition to the plain and distinct law of the Koran, was allowed to rule the decision of Her Majesty's Judges † in the Supreme Court.‡ Thus has a great blow been struck, under the English authority, at the Mahomedan religion, abrogating the written law of the Koran on the evidence of three or four insignificant individuals, whose bare assertion of a prevailing custom, unsupported by any documentary proof, was allowed greater weight than the established law. It was well argued at the hearing of the case, that the Mahomedan law being a part of the Mahomedan religion, no deviation could be allowed from the Koran, and no deviation from it of any nature whatever could be recognized in a court of justice. A person who becomes a Mahomedan does not embrace a part of the religion, but must become in the whole a Mussulman; he must be a Mahomedan or no Mahomedan; if the former, he can have no other law but the law of the Koran. The Mahomedans conceive their law to be an emanation from the Prophet; it is therefore a sacred law, and no court can depart therefrom. The illegality of any custom contrary to religion and law is obvious. But every objection, however

* *Vide* Sale's Koran, vol. 1, p. 46, chap. 4; also Macnaghten's, vol. 1, pp. 2, 3, and 38; in Sir W. Jones' Sirajiya, vol. 3 of, on Mahomedan Law of Inheritance.

† The Honourable Sir Erskine Perry was at this time acting Chief Justice, and had not a colleague on the bench.

‡ In November 1838, a late learned Chief Justice at Bombay, Sir Herbert Compton, declared in open court, "that he had been accustomed to hear judges say, that when they are to consider questions of Hindoo or a Mahomedan law they are in a Hindoo or Mussulman court, and in equity bound to adhere to the strict rules of Mahomedan or Hindoo law." In this fair view of the case, your petitioners would ask if the defendants in the case under notice would have dared to go into a Mahomedan court on the pleas set up in Her Majesty's court. No cazee would have entertained their customs for a moment; and, indeed, in a Mahomedan country, no man professing to be a Mahomedan would, except at the peril of his life, urge an infidel custom in opposition to the Divine law; yet the alleged custom was allowed the preference in Bombay.

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however strongly urged and maintained, was overruled; the illegal infidel customs of the defendants were supported; the plain unmistakeable wise law of the Koran was superseded; and the complainant deprived of her legal and lawful right to share in her late husband's property.

Such a decision cannot but be regarded as a grievance of no small magnitude by the Mahomedan Sunnies, and particularly so by the females of the sect; and it would have been appealed against to Her Majesty's Privy Council, but for the great expense of such appeal; the said complainant and her friends having exhausted all their means, to the extent of 10,000 rupees (1,000 *l.*), in the prosecution of their suit in the Supreme Court.

Your petitioners consider themselves aggrieved by this decision, not only in consequence of the personal injury inflicted on the complainant, but that it will form a dangerous precedent, and be quoted as authority for the decision in future of any disputes that may arise among either of the four sects alluded to, any one of whom may, in order to defeat the ends of justice and the lawful claims of an opponent, set up a vexatious and false statement of the customs of his tribe directly contrary to the plain law; and such acts, if permitted to pass unnoticed and with impunity, may eventually lead to the subversion and abrogation of the laws laid down in the Koran, which God forbid, and thus lead to the more fearful and imminent danger of abrogating in this part of the world the Mahomedan faith, a faith which is dearer to us than life.

Your petitioners and all Mahomedans are strictly enjoined to follow the Koran, the Prophet's Hadís, from which our principal laws are taken. It is the law, from which no deviation can be tolerated, that so long as we find a written law we are bound to adhere to it; much less can we follow any custom known to be in direct opposition to the law; of whatever standing such custom may be, it may be inoperative so long as it is opposed to that which is sanctioned by law. When custom is in any case contrary to the written law, then the law directs that all Cazees and Mahomedans shall break down such illegal custom, and to conduct themselves in strict obedience to the blessed laws of the Koran. The injunctions in this matter are positive and plain; *vide* pp. 17 and 117 of vol. 1 of Sale's Koran, "Whoso judgeth not according to what God hath revealed, they are infidels."

Under these circumstances, while thankfully acknowledging that not only your petitioners but all the inhabitants of this Presidency are highly privileged in enjoying happiness and comforts under the wise and benevolent rule of the British Government, and have no lawful cause of complaint against their honourable rulers, yet your humble petitioners pray that the circumstances set forth in this representation may meet with your gracious and wise consideration; and they pray you to afford them relief from their threatened and suffering distress, by the desertion in Her Majesty's Court of Justice of the strict law of the Koran for alleged infidel customs, which cannot be for a moment compared with the written law.

Your petitioners pray that your Honourable House will be pleased to enact, that for the future all disputed questions of inheritance, marriage, divorce, wills, gifts, &c., affecting any of the four great orthodox Sunni sects of Málakí, Hanafí, Sháfaí, and Hanbalí, may be decided by the written law as laid down in the Koran, and other authorities subordinate to the blessed Koran, against the dicta of which no custom, however old or otherwise proper, ought on any account to prevail.

For the consideration your Honourable House may be pleased to bestow to this representation, your humble petitioners will, as in duty bound, ever pray for the prosperity, happiness, and welfare of the British Government.

(signed) *S. A. Cubbay,*
Dated this 19th November 1852. *K. Kamaluddeen,*
Md. Ebrahim Jeetakur,
&c. &c. &c.

The Humble Petition of *Shaik Ahmed Cubbay*, native Inhabitant of Bombay, and Landholder in that Neighbourhood,

Showeth,

That your petitioner is a member of the Bombay Association, a body recently organized here, "with the view of ascertaining the wants of the people of this country, and the measures calculated to advance their welfare, and of representing the same to the authorities in India or in England."

That your petitioner has read the draft of a petition proposed to be sent to your Honourable House by certain members of the said association, praying for certain changes in the manner of governing British India. That he cordially concurs in much of the same, but thinks it very defective as an exposition of the wants of the people of this country at the present time. That, moved consequently by a feeling of compassion for his suffering countrymen, your petitioner begs respectfully to request the attention of your Honourable House to some proposals which he has already submitted to the public of Western India, through

through the columns of the "Bombay Gazette," and which have met with general approval. That your petitioner, writing in a foreign tongue, craves forgiveness for any inaccuracies in the style of his English, which are not for want of respect to your Honourable House, but from his ignorance, which, however, he is sure the justice and generosity of your Honourable House will not allow to operate to the prejudice of the poor people of India. He therefore proceeds with his proposals, as follows:

The Governor of Bombay should receive his salary, 10,000 sicca rupees per mensem, without any extra allowance for travelling expenses, parties, or for any other purposes. The house at Parell and Malabar Point should be maintained at the expense of the State, but not Dapooree. The Governor should remain at the Presidency, that being his post, and should only be allowed to leave it the same as every other servant of the State, on certified ill-health, or two months in a year on private affairs.

The Commander-in-Chief should receive his salary of 5,000 rupees a month, and no more on any account; no demand for travelling allowances should be allowed on his account; he should have no seat in Council, and consequently have no allowance on that account.

Members of Council should be abolished as useless, and a drag on the impoverished finances of the country.

Haileybury College and the Military Seminary at Addiscombe should be abolished. Any money expended in fitting civilians and officers for their posts should be spent in India, the place from whence the money is drawn.

Appointments, civil, military, medical, and naval, should be sold at fixed rates; the parties to whom they are sold must be as qualified as they are at present. The proceeds should be thrown into a fund for the improvement of the resources of the country.

Natives of all castes and persuasions should be held qualified to hold any appointment under the State for which they may be fit, without distinction of the covenanted and uncovenanted.

Civil service in its present form should, therefore, be done away with. No man, merely because he holds a covenant, should be allowed, when known to be incompetent, to stop in the Government service, much less to advance, simply because he is covenanted; and, in any case, their salaries should be greatly reduced.

Roads and Tanks.—A fixed per-centage of the revenue of the country should be spent yearly, say five per cent., upon the necessary improvements, which, in time, will return back their first cost a hundred-fold; this sum should be spent in excess of sums expended on Government buildings, which do not improve the country.

Ecclesiastical Establishment.—Beyond the Christian ministers required for the soldiery, and actually attached to the regiments, the finances of India should not be burthened to maintain the Christian Church. It should be supported by the voluntary contributions of its members, and, in like manner, the Government should stand aside from all the other religions of the land, that is, as far as grants of money are concerned.

The Sudder Adawlut should be abolished, it being, as at present constituted, a great hindrance to the attainment of justice. Its jurisdiction should be transferred to the Supreme Court, and all the appeals from the Mofussil should be referred to the Supreme Court. At present, from delay of one kind and another, a case of appeal is seldom decided in less than two to five years.

In the provincial adawluts there are at present a Mahomedan and a Hindoo law officer. These appointments the Government intend to abolish upon their vacation by their present incumbents. This should not be permitted, as Mahomedans and Hindoos will not then be able to have their suits decided by their own law. A Mahomedan and a Hindoo law officer should be appointed to the Supreme Court, as is the case at Calcutta. The law suits of Mahomedans and Hindoos should be decided according to their own law upon the point, and not according to the usage of the city in which the case may be tried.

The recovery of the land revenue of the islands of Bombay and Colaba should be taken from the revenue judge, and the deciding of the revenue cases should rest with the judges of the Supreme Court, as in the zillahs when the zillah judges decide; these latter to be amenable to the Supreme Court in Bombay.

Pensions should be granted to the menial servants of the Government, instead of, as at present, after they are worn out with age in the service of the Government, discharging without any stipend, thus obliging them either to starve or beg.

All monopoly of salt by Government should be abolished, and the shameful tax levied at present by Government on this necessary of life should be at once and for ever abolished, and free trade allowed on every article of necessary and daily consumption.

That your petitioner begs leave further respectfully to represent, that hitherto, when reductions of establishments have been made, it has been customary to cut all clerks and peons and persons who cannot protect themselves 20 or 25 per cent., as the case may be; but the pay of civilians and others, who could best afford to lose a portion of their emoluments,

has

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has been inviolable. In future, when emergencies of the State require a reduction of establishments, it should commence with the Governor, Commander-in-Chief, members of Council, and thence proceed downwards through the different classes of public servants.

That your petitioner further begs leave respectfully to submit to your Honourable House the following detached suggestions on questions of general interest:

1. *Cultivator's Sufferings.*—There was a rule of the Peshwa's government, and also of the British Government, by which, in the month of May or June, it was customary to make an advance to the cultivators, called tagaee, according to the quantity of ground cultivated by each, to enable them to purchase bullocks, ploughs, &c. at reasonable rates, which tagaee was repaid in the months of November and December, while the crops were ripe on the ground. This loan the Government has partially suspended, owing to the neglect of the native officials in not making proclamation and calling the cultivators to receive tagaee; and the cultivators suffer therefrom, and are obliged to ask loans from Banyans, Marwarees, and other people. They charge them premium, otherwise suwaee and decree, which means for each rupee a quarter or half a rupee for six months, instead of 18 reas interest, and by such act the cultivators are totally ruined. Government should direct the advance of tagaee as usual. By advancing tagaee the Government will be benefited; they will get nine per cent. for their money, and the cultivators will be saved from sustaining the impositions of the Banyans, &c. Without such advance, consequent on the poverty of the cultivators, the country will be destroyed.

2. *Stamp Papers.*—On the 1st day of June 1816, the Government introduced a regulation, by which the use of stamp papers for each and every suit filed in the judicial courts became necessary, as will appear on reference to the Regulations XVIII. of A.D. 1827. By establishing this rate native British subjects have been entirely ruined. Previous to this Act there was a rule to pay five per cent. on the amount under litigation, and no further expense was necessary; and now for each and every document and witness produced before the court darkhast is required, by which, besides the costs of native pleaders, sometimes the cost of carrying on a suit through any court is at least one-fourth of the amount sued for. Government, instead of exacting such cruel taxes from its subjects, and so ruining them, should nourish them as a gardener nourishes the herbs and plants. Government should fix a small fee upon each suit, the amount of the sum sued for determining the fee.

3. *Suits.*—In several courts under the Bombay Presidency there are judges, principal sudder ameens, sudder ameens, and moonsiffs, who receive handsome salaries, and numerically are quite sufficient to do all the work before the court in proper time; but instead of this, suits brought into the zillah courts are delayed from year to year, sometimes extending to even four years. Parliament should direct that every suit be decided within two or three months from the date of its being filed in a court; there is no difficulty in such being done, for all the proceedings are in the native language, and are well known to the parties. In the Supreme Court, the plea side, cases are always decided within three months, that is, in the term following their being filed, and this is done notwithstanding the language used is English, and English pleaders are employed therein.

In the Small Cause Court, just established, suits are decided within a fortnight of their being filed, and this notwithstanding the cases decided are ten times more numerous than those decided in zillah courts; and in this court there are only three judges, while in zillah courts there are more than a dozen officers, both Europeans and natives.

4. *Sudder Adawlut.*—Any appeals from the decision of a zillah judge must be made to the Sudder Adawlut. Parties are obliged to purchase stamp papers of a considerable value upon which to write their appeals. An appeal filed for admission goes before a single judge, and to read this petition, and to decide whether the appeal shall be admitted or not, takes this single judge sometimes, without its being produced in full court, six months, seldom less, and sometimes a year, or even three years. Should the appeal be admitted, the appellant is very fortunate if he gets it decided in less than two years. Sometimes the parties are wearied by having to wait five years for the decision. Let Parliament, should it not see fit to abolish this court, which is a bar to justice, which I recommend, and to have three judges in Her Majesty's Supreme Court instead, direct that all appeals to it should be decided within six months. Appeals sent to England from the Supreme Court are there decided in six months, notwithstanding all the obstacles there are in the way to speedy decision.

5. *Mahomedan or Hindoo Family Disputes.*—In cases of family disputes in Mahomedan or Hindoo families, arising from evil and designing persons enticing away a wife or daughter for the vilest purposes, where such is brought before a magistrate, the magistrate decides according to the English law, and if the wife or daughter does not live with her husband or parent, she is at liberty to go where she pleases. This is quite contrary to Mahomedan or Hindoo law, and the usage of the country, which requires that a husband who ill-treats his wife should be duly punished, and bound by security to keep the peace towards her; and instead of her being told to go where she pleases, she should be directed to go with her husband before the cazee of the Mahomedans, or the muscadum of the Hindoo caste, and get reconciled. Should the decision of such cases by Mahomedan or Hindoo law be ordered by the new Charter, many families will have cause to bless the British Government.

6. *Enams.*—Lands granted in enam by the former Governments should be held sacred to the families descending from the persons to whom they were originally granted, and not be taken back by the present Government, without there is failure of direct issue. At present a great

a great number of poor people have been deprived of enams granted to their ancestors for various reasons, whereby much distress has been occasioned to classes that cannot make their grievances known to others than the local authorities. Tenure of enams from the time of the Peshwa's government, or other former governments, should be held to give the holder a perfect right to the enam.

7. *Taxes.*—New taxes should not be laid upon the people, as at present, without their being at all consulted in the matter, but some provision should be made by Parliament that no new tax should be levied without the heads of the villages or towns affected being consulted as to the propriety of their being levied, and even then they should not be imposed without the sanction of the Imperial Legislature.

That your petitioner prays the earnest attention of your Honourable House to these views, conceived, as will be seen, in a spirit of benevolent regard for the welfare of the people of Hindoostan, and that the same may pass into law with the sanction of your Honourable House, for which millions, as well as your petitioner, will be grateful.

And your petitioner, as in duty bound, will ever pray, &c.

Bombay, 1st November 1852. *S. A. Cubbay.*

The Humble Petition of *Warren Hastings Leslie Frith*, Colonel in the Bengal Artillery, in the service of the East India Company,

Showeth,

That your petitioner is the only son and sole personal representative of Lieutenant-colonel Robert Frith, deceased, formerly of the Bengal cavalry, in the service of the East India Company, and who was in the years 1782, 1783, and 1784 aid-de-camp to the late Warren Hastings, Esq., Governor-general of India.

That by a treaty between the Governor-general and the Nabob Vizier of Oude, Asoph-ul-Dowlah, known as the treaty of Chunah, in 1781, it was agreed that the fortress of Futty Ghur, in the kingdom of Oude, then held by the Company's troops, should be evacuated and delivered up to the Vizier to be occupied by his own troops, but it was stipulated that the troops should be under the command of a British officer appointed by the East India Company.

That your petitioner's father was the British officer selected and appointed to take the command of the said troops, and he accordingly assumed their command, the troops consisting of five battalions of sepoys, with eight field pieces, &c.; that he was to receive from the Nabob, in lieu of pay, table money, and all other emoluments, 5,000 rupees per month, his pay from the Company being in the mean time suspended.

That part of the troops were ordered to march to Futty Ghur, and the remainder detached into the Mofussel, to assist in realising the revenue; and that when the troops were about to move, the money necessary for their pay and subsistence not being supplied, application for means was made to the Nabob's minister, Hyder Beg Khan, who declared his inability to furnish the money, as all the resources of the country were required to make up a crore and five lacs of rupees, the arrears of a subsidy due to the East India Company, the Governor-general having peremptorily required immediate payment, and the money being pledged by the minister for such payment.

That the minister, Hyder Beg Khan, strongly urging Colonel Frith to raise money for the supply of the troops on his own, Colonel Frith's, credit and responsibility, promising that the loan should be repaid as soon as the above pressing demands on the revenue should have been discharged, Colonel Frith determined to raise the necessary money, in which he ultimately succeeded; and with the approbation of Major Palmer, the Resident at Lucknow, he advanced 40,000 rupees for the pay and subsistence of the troops, and they then moved to Futty Ghur.

That if such advance of 40,000 rupees had not been so raised by Colonel Frith for the pay and maintenance of the Sepoy troops under his command, the troops must have been disbanded, to the heavy pecuniary loss of the Company, as the collection of the Nabob's revenue could not have been effected, and the subsidy due to the Company would not therefore have been paid.

That in a few months after the departure of the Governor-general, Warren Hastings, to England, Sir John M'Pherson, the acting Governor-general, ordered the brigade of the Company's troops, who had before occupied Futty Ghur, back to that station, and, in consequence, the Vizier's troops, under Colonel Frith, were recalled, for the purpose of being disbanded; but the embarrassments of the Nabob's minister still continuing, he was unable to furnish the money for the payment of the disbanded corps, and Colonel Frith was again obliged to raise, on his own credit, a further sum of money; which loan was accordingly effected, and applied in payment of the troops.

That Major Palmer, the Resident of the East India Company, and representative of the British Government at Lucknow, resigned his office in July or August 1785, having refused to sanction the recall by Sir John M'Pherson of the troops from Futty Ghur, contrary to the treaty made by Governor-general Hastings; and, in making up his accounts of his office

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office as resident, it appeared therein that there was a balance due to Colonel Frith for advances made by him, which had been applied for the payment and subsistence of the troops, and also, for his pay and allowances of two lacs and 70,000 rupees, for which a bond, bearing interest at 12 per cent., was made out, under the seals of the Nabob and his minister, in favour of Colonel Frith, and was delivered to him officially by Major Palmer, the resident.

That Colonel Frith continued in the Nabob's service until July or August 1786, when he was recalled and ordered to rejoin his corps. At that period another year's allowance had become due, but, owing to the pecuniary difficulties that still existed, no part of the bond or allowance was paid until the year 1789, when Colonel Frith received certain tunkhors or assignments on the Nabob of Turrackabad, for one lac of rupees, in part payment of the bond, and which sum was paid by three annual instalments, in the years 1789, 1790, and 1791.

That Colonel Frith was, in the year 1790, ordered with his corps (first regiment cavalry) round to the coast, whence they returned to their station in 1792. That during this service his health was greatly impaired, and he continued gradually to decline until his death in 1800, and when he was unpaid any further part of the debt due to him.

That in the year 1797 the Vizier, Asoph-ul-Dowlah died, and his reputed son, Vizier Alli Khan was placed on the throne by the then Governor-general; but the new Nabob, being considered unfriendly to the British interest in India, was afterwards displaced by the East India Company, on account of his alleged spurious birth; and the Nabob, Saadut Alli Khan, the brother of Asoph-al-Dowlah, was raised to the throne, and a treaty was executed containing a provision, "That the just debts of the Vizier, Asoph-ul-Dowlah, shall be discharged by the Nabob Saadut Alli Khan, and that an arrangement for that purpose shall take place within twelve months after the elevation of the said Nabob, Saadut Alli Khan to the musnud, so that the whole shall be liquidated in three years after that date." Upon the faith of this treaty, Saadut Alli Khan obtained and accepted the sovereignty; but in further arrangements between the new Nabob and the Company, a further treaty was executed on the 21st day of July 1798, wherein the preceding article was wholly omitted, and no provision was made for payment of the then outstanding debts of the deceased Vizier, for the reason, as was afterwards stated by the Marquis of Wellesley, that the demands of the Company "precluded the possibility of preferring matters, however weighty in the scale of justice, of inferior consideration in a political and national point of view."

That on the 10th of November 1801, a treaty was concluded between the East India Company and the Nawaub Vizier Saadut Alli Kahn "for ceding to the Company, in perpetual sovereignty, certain portions of his Excellency's territorial possessions, in commutation of the subsidy then payable to the Company by the Vizier."

That your petitioner has made repeated endeavours to obtain redress from the East India Company by memorials to the Government of India, to the East India Company, and the Board of Control, and that your petitioner has been unsuccessful in all his appeals to the justice of the Directors.

That your petitioner is advised that he has no legal claim on the East India Company, though his claim on the Directors rests on unquestionable moral grounds.

That there are precedents of redress of similar acts of injustice to civil and military servants of the Company being afforded by the British Legislature, and that especially in 1832 (after a Select Committee of Inquiry) a public Act of Parliament (stat. 4 Will. 4, c. 112), directed a reimbursement of Captain James Arthur Murray by the East India Company under circumstances analogous to the case of your petitioner.

That your petitioner respectfully submits the following reasons for granting to your petitioner a Select Committee of Inquiry:—

First. Because the money was advanced with the sanction of the representative of the Bengal Government for the public service of Oude, under circumstances which rendered it subservient to the policy and interest of the East India Company.

Second. Because, prior to such advance, the Bengal Government had sanctioned the principle of interference, and had interfered for the payment of similar advances.

Third. Because (in the language of Sir Philip Francis), "since the East India Company have taken the government of the country in effect from the Nabob, an attempt to shift the debt personally upon him would be the same thing as not paying it at all."

Fourth. Because the East India Company, by taking from the Nabob the greater part of his territory liable to the debt, have deprived him of the means of payment.

Fifth. Because the East India Company, by expunging from the treaty made on the accession of a succeeding Nabob, the clause which obliged him to pay the debt of his predecessor, virtually, and, as the Nabob pleads, absolutely, absolved him from liability to payment.

Sixth. Because, by reason of the sovereignty of the East India Company, the petitioner cannot have relief in a court of ordinary jurisdiction.

Seventh. Lastly, because, without the credit and advance of Colonel Frith, the Nabob's troops must have been disbanded and his revenue uncollected; and therefore that such advances by Colonel Frith in fact secured the payment of the subsidy to the East India Company then due by the Nabob, and which otherwise would not have been paid.

That

That under these circumstances, and for the above reasons, and as all appeals to the justice of the East India Company have failed, your petitioner respectfully applies to your Honourable House for relief as his only remaining means of redress.

Your petitioner therefore humbly prays that, as your Honourable House is now about to legislate for the future government of India, it may please your Honourable House to appoint a tribunal by which the claim of your petitioner, and any other claims of a similar nature, may be investigated and determined.

And your petitioner, as in duty bound, will ever pray.

W. H. L. Frith,
Colonel Bengal Artillery.

London, 12 February 1853.

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble Petition of *John Sullivan,*

Showeth,

That your petitioner is a member of the East India Company.

That that Company has proclaimed its intention of annexing to the British dominions in India the territories of all native princes who may die without natural heirs.

That it has already acted upon this resolution in three instances; and is, as your petitioner is informed, about to act upon it in a fourth.

That such confiscation is a gross violation of the inherent rights of those princes, and of our treaties with them.

That it is calculated, as your petitioner believes, to alienate the affections of all classes of the people of India from British rule, and to undermine British power in that country.

That your petitioner therefore prays your Honourable House to refer these allegations for inquiry to the Select Committee of your Honourable House, which is now employed in investigating the affairs of India, and to report upon the same for the information of your Honourable House.

And your petitioner will ever pray.

J. Sullivan.

The Humble Petition of the Hindoo Inhabitants of Bengal, Behar and Orissa, for themselves, and the other Hindoo Inhabitants of the said Provinces,

Humbly showeth,

That your petitioners and their Hindoo fellow countrymen of the abovementioned provinces are greatly aggrieved in the enjoyment of their ancient laws and customs, in regard as well to rights of inheritance and property as to religion, by an Act of Legislative Council of India, being Act No. 21 of 1850, entitled, "An Act for extending the Principle of Section 19, Regulation 7, of 1832, of the Bengal Code, throughout the provinces of the East India Company," a copy of which Act they annex to this their humble petition; and, having by petition and memorial, and every means in their power, first endeavoured to prevent the passing of the said Act, and subsequently to procure its disallowance by the honourable the Court of Directors, but without success, your petitioners earnestly appeal to your honourable House against the said Act for such relief and redress as it may be in the power of your Honourable House to give, and as the circumstances of the case may appear to require.

2. That from the title and preamble of the said Act, it might be supposed that the Act is a mere local extension to the other territories of the East India Company, of a regulation which was established in the year 1832 for Bengal; but such is not the case, as your petitioners will presently show.

3. That your petitioners are advised and believe that the intention of the said regulation was merely to protect from loss or forfeiture of property persons who should concientiously change their religion, and especially such natives of India as should embrace the Christian religion. But the said Act, besides having this object, to which they object, for the reasons hereinafter given, extends to other objects not contemplated, as your petitioners believe, by the authors of the said regulation.

4. Your petitioners think it may be necessary to premise, for the information of your honourable House, that all property of Hindoos, according to Hindoo law, descends in case of intestacy from the ancestor to the heirs, subject to the condition that these shall, on the death of the former, make the necessary funeral oblations, and perform during their lives the periodical rites and ceremonies enjoined by Hindoo law and religion for the deceased line of ancestors; and the Hindoo's confidence in meeting death and hope of a happy state after this life depend on his assurance that this condition will be religiously and faithfully performed. And by a just logical consequence the Hindoo law confines the right of inheritance to such persons as are willing and able to perform, or join in performing the said condition.

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5. That by Hindoo law there are many other rights, and not merely relating to property, but also to other enjoyments, the possession and continuance of which depend on the performance of conditions derived from morality and religion; and in this pervasive connexion between private right, and religious and moral obligation, consist the vitality and strength of the Hindoo social organisation. It is the common bond by which society has been preserved from dissolution during several periods of war, anarchy, and convulsion, and is preserved in the present day under British rule.

6. That the said Act strikes at the foundation of this system of property and obligation, and that your petitioners earnestly implore the attention of your honourable House to a brief analysis of the said Act, which they offer with a view to demonstrate its extensive operation. On an analysis it appears that it deals with certain persons and certain rights. The persons in the words of the Act are; 1. Persons renouncing the communion of any religion. 2. Persons excluded from the communion of any religion. 3. Persons deprived of caste. And in favour of these three descriptions of persons the Hindoo law is to the following extent repealed; viz. that it shall cease to inflict on them any forfeiture (1) of rights; (2) of property; and (3) that it shall cease in any way to impair or affect any rights of inheritance. Your petitioners are advised and believe, that these words, "rights" "property," and "rights of inheritance," though jurisprudentially ill selected and illogically arranged, comprise the whole body of civil and religious rights with which Hindoo law in any way deals in the case of the previously specified persons; and that the said designations of those persons comprise the whole body of persons whom Hindoo law regards as offenders in any way against Hindoo morality, law, or religion. It is hardly necessary for your petitioners to point out the great difference between these three classes of persons: in the first class the Christian convert may be reckoned, as he is a person renouncing the communion of the Hindoo religion; but persons who are excluded for other reasons besides that of embracing another religion, and still more, persons who may by Hindoo law be deprived of caste, include persons guilty of all shades, from the faintest to the deepest, of immorality and crime. On this plain analysis, therefore, your petitioners humbly and confidently say, that by the said Act every barrier which religion and law and custom have raised in the interests of Hindoo society is weakened, or broken down.

7. Your petitioners trust that they may, without abandoning their broad and general objections to the said Act, submit an illustration of the manner in which it may be made to operate on Hindoo social and family relations. A Hindoo widow is entitled by Hindoo law to maintenance out of her husband's or father-in-law's estate, and residence in the family house if there be one; and if she has had an only son who has died childless she would be entitled to the inheritance, in the place of her son, of a third part; for example, if the estate was the joint estate of three brothers, her husband having been one, and if living as a joint family at the time of his death, she would be entitled to residence in the family mansion. According to Hindoo law she would be liable to be deprived of caste by many kinds of immorality, say, for example, prostitution, if on being called to repentance and penance she persisted in them; and as a consequence of being deprived of caste, she would lose the said right to maintenance and right of inheritance. But by the said Act these rights are preserved to her notwithstanding. If her husband's brother were to sue for a partition, thereby recognising the right given to her by the Act, she would still remain in the family mansion in juxtaposition with the virtuous matrons of the family and their children and grandchildren, in apartments allotted to her under the partition, and by the Act made inalienably her own. One more illustration. A religious Hindoo, having an only son, looks to that son as his assurance that those religious rites will be duly performed on which he believes his salvation and that of his immediate ancestors to depend. If the son becomes a Christian, or from any other cause is deprived of caste, the father is entitled by Hindoo law to adopt another son, who would by the same law take the inheritance. The Act in question, by severing the inheritance from the adoption, and securing it to the original son, virtually and practically annuls the Hindoo right of adoption.

8. That it would be impossible for your petitioners adequately to describe the manner in which the said Act may operate on Hindoo social relations; but the above illustrations are selected from a great variety which might be given, and they show, as your petitioners submit, that the said Act is of a tendency subversive of the interests of morality and religion.

9. That in the opinion of your petitioners, the said Act involves a breach of faith on the part of the Government towards the Hindoo nation, a persistence in which will affect the honour and glory of the British Crown. The first acquisitions of the British in India having been made by or in the name of the East India Company, your petitioners can only appeal to the acts and declarations of that body in support of the above proposition; and these acts and declarations have uniformly held out to the Hindoos the promise of of the establishment of Hindoo law for Hindoos, and of their being made secure in the enjoyment of their ancient usages and religion. By such declarations and promises the British Government has gained the confidence and allegiance of the Hindoo people, and that the said Act is inconsistent with them. That such was the early policy of the East India Company, is attested by every respectable historian. That the administration or practice of the Government was in accordance with this its professed policy may be proved by authentic traditions, and is in the recollections of men still surviving a now bygone generation, and is besides strongly evidenced by the missionary literature of the present day, which is constantly endeavouring to bring obloquy on the officers of Government of former days for having respected the religion, laws, and usages of the people; and your petitioners

petitioners beg to add that, although the policy alluded to preceded all legislation, and was long maintained independently of legislation, and had a much wider scope than any legislation on the subject, it is in fact supported by legislation. In Bengal, in 1793, and in Madras in 1802, regulations of Government were passed by which the Hindoo laws were established here, as the laws to be followed in all suits regarding succession, inheritance, marriage, and caste with regard to Hindoos, and the same in 1781, was intended by Parliament to be made the law of the Supreme Court for the natives of the presidency towns. Referring, therefore, to this long and uniform course of policy, administration and legislation, your petitioners feel warranted in considering the said Act as a violation of their established rights as a people, whose virtually distinct nationality has been recognised by the British Crown, contrary to the good faith which the British Crown will maintain.

10. That your petitioners are also advised that the said Act is beyond the power and competence of the Legislative Council, but that, inasmuch as its legality cannot be disputed in the courts of the East India Company, your petitioners are remediless except by the aid of Parliament.

11. That your petitioners, having compared the said Act with the regulation of which it professes to be an extension, beg your Honourable House also to compare it with the measure originally proposed prior to the said Act, by the Indian Law Commission. and sanctioned by the Government. And for the purpose of enabling your honourable House to form a comparative judgment, your petitioners beg to premise a brief narration. In 1845 an Act was proposed by the Indian Law Commission, and published in draft by the Indian Government, for the purpose of establishing a substantive law of the place under the name of the Lex Loci, for the numerous classes in India being neither Hindoos nor Mahomedans, respecting whom it was doubtful what kind of law applied to them. By the provisions of the proposed Act, as your petitioners are advised, converts from the native to the Christian religion would have been placed under the Lex Loci, and by three sections a (copy of which is annexed to this petition) provisions were alleged to be made on the principle of the regulation of 1832 for persons who should renounce or be excluded from the communion of any religion, meaning, as your petitioners understood, natives who should become Christians. In the various petitions and remonstrances of the Hindoo community against the measures alluded to, the Secretary of Government finally replied by the following paragraph in a public and official letter, par. 35. " It is the intention of Government for the more convenient arrangement of the new law to remove the other sections from the Lex Loci Act, and place them in a separate Act." The Hindoo community thereupon expected that the obnoxious law would be passed, but passed as proposed, and substantially in its integrity. The separate Act alluded to is Act 21 of 1850, but it is not composed of the said three sections, and is not substantially the same measure, but on the contrary, it is in some respects new, and it more extensively outrages the feelings of the Hindoo people; and moreover, your petitioners would particularly point out to your Honourable House, that of the three proposed sections one was restrictive, and to the effect that the new law should not be specifically enforced when it would be likely to outrage the religious feelings of any party against whom the courts of justice might be called on to apply it. The Act 21 of 1850 contains no such restrictions, nor even the qualification contained in the regulation of 1832, by which it was provided that that measure should be carried out in conformity with "justice, equity, and good conscience." And in considering this statement your honourable House will not fail to remark this important fact, that the much milder measure originally proposed was, in the opinion of the Indian Law Commission, adapted (as in fact it did) to outrage the feelings of the Hindoos, and was not a fit law to be passed without checks and restrictions.

12. That your present petitioners are the inhabitants of three different provinces, and by reason of some local differences between the Hindoo law of Bengal from that of Behar and Orissa, they are not all necessarily affected by the said Act in the same manner. In Bengal, but not in Behar or Orissa, nor generally in the rest of India, the Hindoos may legally make a will of the whole of their property, and thereby they have the power of securing it to those who will respect its consecrated uses and the trusts to which it is subject for the benefit of ancestors; but all your petitioners alike regard the Act in its entirety as subversive of Hindoo society.

13. That the objection of your petitioners being to the general operation of the said Act, your petitioners are disinclined to urge objections merely to its details, but they are struck with its great want of equity. The rights or supposed rights of its favoured classes have been abstractedly considered, and no regard has been paid to the eleemosynary and beneficiary interests which are recognised by all Hindoo families in the actual use and enjoyment of property. Such interests ought to be specially provided for in any new distribution of property. Your petitioners also beg incidentally to note that, as Hindoo law will cease to a great extent to apply to the classes provided for by the said Act, a new body of laws is required for the said classes, but is not provided by the said Act, and the omission may become extensively inconvenient to the Hindoo community.

14. That your petitioners do not feel called upon to defend their ancient laws and religion: they are of great antiquity, they have been for ages the inheritance and possession of a hundred millions of people, and are so to the present day, and generally they remain in perfect harmony with the faith and feelings of the people. Your petitioners, therefore, confidently submit that these laws ought not to be altered or superseded in any one article, except at the imperative call of humanity, justice, and reason united: and your petitioners beg most respectfully and earnestly to add that no such grounds exist for the said Act, and that

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that your petitioners regard the said Act as merely an encouragement to the spirit of religious proselytism, but at the same time going much beyond that object. Your petitioners are not insensible to the peculiar case of such of their countrymen, especially the young and inexperienced, as have been gained over to professing to be Christians. But your petitioners submit, their becoming Christians does not entitle them to the benefit of special legislation. Their desertion of the religion of their country opens to many of them a career of fortune in which their brother Hindoos cannot follow them, and no converts from the faith of a nation were ever so favourably circumstanced as are Hindoo Christians.

15. In conclusion, your petitioners humbly pray your Honourable House to take this their petition into your most serious consideration, and to take such measures as to your Honourable House may appear expedient to procure the repeal or annulment of the said Act of the Legislative Council of India, and said regulation of the Bengal Government, and as also may be necessary to preserve to the Hindoo nation the enjoyment of their ancient religion and customs.

And your petitioners shall ever pray.

Raja Radhahant Bahadoor
Raja Kalikrishna Bahadur.
Cossinauth Mullick.
&c. &c. &c.

The humble Petition of the undersigned retired Servants of the Honourable East India Company, Merchants, and others;

Showeth,

That your petitioners are severally holders of promissory notes of the East India Company, granted from time to time by succesive Governments of India on occasion of raising money on loan for its service.

That your petitioners have for the most part become possessed of such Government promissory notes during the course of a long residence in India; and, while such residence has made your petitioners practically acquainted with its affairs, and has given them a deep interest therein, your petitioners show that the fact that they are creditors to a large amount, of the Government of India, necessarily gives them a great stake in its financial properity, and in its general well-being.

That much the greater part of the proprietors of East India stock have never resided in India, and are therefore for the most part less acquainted with Indian affairs than your petitioners, and, inasmuch as by the last Charter Act the dividends on East India stock are made the first charge on the revenues of India, the proprietors of such stock have, by reason thereof, only a nominal interest in its government.

That, if it be the wisdom of Parliament to commit the government of India to a body (more or less numerous) having the same or similar functions to those of the present Court of Directors of the East India Company, it is expedient that such body should be chosen by a constituency more extended in its character than the present proprietors of stock of the East India Company, and having a real instead of a nominal stake in the welfare of India, and especially by a constituency more qualified than the present to judge of the qualifications of the candidates.

That your petitioners further believe that the granting to the holders of promissory notes of the Government of India the right of voting in the choice of Directors, will improve the value of the securities of the Indian Government, and will enable it to borrow money at a more easy rate.

Your petitioners therefore humbly pray your Honourable House, that should it be deemed expedient in any future arrangements to be made for the government of India, that such government should be vested wholly or partially in a body constituted like the present Court of Directors of the East India Company, the right of choosing the persons to compose such body may be granted, in such manner as to the wisdom of Parliament may seem fit, amongst others, to the holders resident in this country of the promissory notes or securities of the Government of India.

John Morgan, Col., C. B., Madras Establishment.
J. A. Arbuthnot.
Henry Harper, late Archdeacon of Madras,
&c. &c. &c.

The Petition of the undersigned Proprietors of East India Stock, and other Persons, British Subjects, interested in the welfare and good Government of India;

Showeth,

That from the year 1765 to the year 1792 the limits of the British territory in India remained almost stationary; that in the year 1793 the revenues of British India amounted to 8,276,770 *l.*, the charges 663,395 *l.*, so that the territory then yielded a surplus revenue of 2,209,846 *l.*, whilst the territorial debt amounted to 7,129,934 *l.*

That between the years 1793 and 1813, large additions were made to that territory.

That

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That in the latter year (1813) the gross revenues of India amounted to 16,764,700 *l.*, the charges to 16,899,362 *l.*, showing an excess of charges over revenue of 134,362 *l.*; that the debt in this period of 20 years had increased from 7,129,934 *l.* to 26,970,786 *l.*, or to nearly four times its original amount.

That the Committee of the House of Commons on Indian Affairs, which sat in 1832, reported to your Honourable House, that up to that period the gross charges of the Indian territory had augmented in a greater proportion than the receipts.

That in the year 1833, twenty years after 1813, the revenues amounted to 13,680,165 *l.*, the charges to 13,630,767 *l.*, showing a surplus of revenue of 49,398 *l.*, but which surplus was partly derived from the sale of the Company's commercial assets in India.

That on the 1st April 1834, the debt amounted to 29,832,299 *l.*

That on the 1st April 1849, fifteen years after, when the whole of Hindostan had been brought under our sway, the revenues of India amounted to 18,227,350 *l.*, the charges to 19,700,465 *l.*, showing an excess of charges over revenue of 1,473,115 *l.*, while the debt had swollen to 48,124,119 *l.*

That from the year 1839-40 to 1849-50, the total charges of India were 183,369,206 *l.*, the total receipts 168,622,144 *l.*, showing an excess of charges over receipts during these 10 years of 14,747,062 *l.*

That in 1839 the debt of India amounted to 32,269,178 *l.*; in 1849, at the end of the next 10 years, it amounted to 48,124,119 *l.*, and that the debt has since increased, and is at this moment increasing.

That the revenues of India amounted in 1839 to 14,549,262 *l.*, in 1849 to 18,227,350 *l.*, showing that in this decennial period the debt has increased several times as fast as the revenue.

That this increase of revenue, moreover, arises mainly from a source over which the British Government has no control, viz., from sales of monopoly opium. That as the receipts from this source were diminished by one-half upon the breaking out of the last Chinese war, the same, or more aggravated results may be produced whenever the Chinese Government may choose to legalise the cultivation of the drug in China, or whenever other nations, such as the United States, attracted by its monopoly price in that empire, and now possessing boundless land in the Pacific adapted by natural fertility and a congenial climate to the growth of the poppy, shall turn their energy and attention to the supplanting of the Company's opium in China, as successfully as they have supplanted the Company's cotton in England.

That your petitioners entertain a strong conviction that it would be impossible, at the present moment, to supply a deficiency in the opium revenue from any other source in India; that the solvency of India, therefore, now depends, and has for many years depended, upon the stability of that monopoly.

That up to the year 1834, the profits arising from the Company's exclusive trade were applied in aid of the Indian treasury; that from that date all the home expenses, including the interest upon the home debt and the dividends paid to the proprietors of India stock, have been charged upon the territorial revenues of India.

That the confident predictions which had at all previous times been expressed, and which were again expressed by the minister of India in 1832, of the competence of the revenues to bear all these additional charges, have not been realised; that, on the contrary, every increase of territory has been followed by a greater increase of debt, making it manifest, that if England possessed the whole world on the same terms, and followed by the same results as she possesses in India, her condition would be one of irretrievable ruin.

That such results prove that India, regarded as a national acquisition, that is to say, as an acquisition made by British blood and British resources, and consequently as one in which every subject of the empire possesses a common right, and is entitled to claim an equal interest, was of far less real financial value in the year 1849 than it possessed in the year 1793, fifty-six years ago; for, whereas the surplus revenue of 1793 amounted to 2,209,846 *l.*, and would at the same rate have amounted, in the 56 years which have elapsed, to the sum of 116,217,610 *l.*, after paying off the then existing debt of 7,129,934 *l.*, and exclusive of any accumulating interest during the period, the actual debt of India is shown to have amounted in 1849 to 48,124,119 *l.*, thus making the total national loss, exclusive of interest, incurred in the course of half a century, no less a sum than 164,341,729 of pounds sterling.

That this sum, if it had accumulated at interest of five per cent. during 56 years, would have amounted to the sum of 625,290,172 *l.*, a sum which would more than have sufficed to pay off three-fourths of the national debt of England, without the acquisition of another foot of territory in India, or the imposition of an additional rupee of taxes on the people of India.

That the financial state of India is, therefore, in the opinion of your petitioners, such as to require a searching inquiry into all the departments of Government, both at home and abroad, in order that these may be placed upon a footing of the strictest economy consistent with efficiency; and in order that it may be determined, by the light now afforded by nearly a century of experience, whether a country so acquired and so ruled as India has been by the East India Company, is a real element of national greatness and strength.

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That, as the Government of India has assumed and exercises the rights of a landlord over all the soil of India, the obvious remedy for the financial embarrassment of that country is the employment of adequate sums for the development of its great productive resources, which are now either lying dormant or altogether crushed; that money raised by loan at low rates of intest, expended upon works of irrigation, in the formation of railroads, of common roads, and of bridges, and on the indispensable requirements of the rivers and harbours, almost wholly neglected, lying along a coast-line of the length of 7,500 miles—a line equal to one diameter and one quarter of the globe—would, in the conviction of your petitioners, at once lighten the taxation of the people, stimulate their industry, raise their condition, greatly augment the general commerce of the country, and consequently increase vastly the public revenues.

That there would be no difficulty in raising such loans in England to any prudent extent, if the Directors of the East India Company had publicly made known the small comparative cost at which the few public works they have attempted in India have been executed; if they had showed the great and yearly increasing profitable returns which those works are everywhere yielding upon the capital expended; if all works to be executed and their returns were offered to capitalists as the security for the loans to be raised; and if the faith of the British Government were pledged to the money so raised being scrupulously expended upon their execution.

That your petitioners beg to refer your Honourable House to the evidence given in 1851 before the Committee of Official Salaries, for proof that, while the law professes to place the Government of India in the East India Company, it really lodges that authority in the Minister of the Crown, who exercises it without direct Parliamentary responsibility, and under the name of the Directors of that Company; and that whenever the Secret Department is brought into operation, that body in which the law professes to place the Government of India, is entirely set aside.

That such a system is in principle unconstitutional, open to flagrant abuse, and inconvenient in practice; while it causes an enormous waste of public money and time.

Your petitioners further desire to bring to the notice of your Honourable House that from the first formation of the Board of Control in 1784 up to the present time, the instances in which the members of that Board have been actually resident in India are rare; that at this moment there is not an individual belonging to it who has ever visited India; that the Board, therefore, in which the Legislature has vested plenary powers for the Government of India is usually wholly ignorant of the character, the feelings, and the wants of the people of India.

That by section 87, 3 & 4 Will. 4, c. 85, it was enacted, that no native of India should be disqualified from holding office in India by reason of birth, caste, or colour.

That the avowed intention of the Legislature in passing this enactment was, that the natives should be allowed to participate in offices which, up to that time, had been exclusively held by the covenanted servants of the Company.

That, in the opinion of your petitioners, this enactment has been rendered inoperative by that part of the present system which places the patronage of India in the hands of the executive body of the East India Company, namely, the 24 Directors.

That it is the interest of this body to keep establishments in India at a maximum—their duty to reduce establishments to a minimum; it is their duty to give effect to the enactment above referred to—their interest to make it, as it has been made, a dead letter; because, in proportion as natives are admitted to office in India is the initiatory patronage of the executive body diminished.

That to the same cause must be ascribed, in the opinion of your petitioners, the entire failure of what was considered a most important feature in the plan that was ratified by Parliament in 1833, viz. the allotment of important powers and functions in the administration of Indian affairs to the Court of Proprietors of Indian stock, the immense patronage at the command of the executive enabling the latter at all times to command a majority in that court upon any question.

Your petitioners therefore earnestly solicit, that those who may be hereafter entrusted with the Government of India shall be adequately paid in money, and the patronage of India transferred to other hands.

That your petitioners beg to remind your Honourable House, that Parliament has twice declared it to be "repugnant to the wish, the honour, and the policy of the country, to pursue schemes of conquest and extension of territory in India;" that the Government of India has nevertheless recently expressed its determination to avail itself of every opportunity that may occur of extending that territory, by making forfeitures and escheats of native states; that your petitioners therefore solicit that the law on this subject, and the practice, may be made to harmonise.

That, as stated by one of the Directors of the East India Company in the Court of Proprietors, "our incesssant encroachments and sequestrations of native territories make every native sovereign fear that he will be the next victim; while our constant territorial appropriations and resumptions of rent-free lands lead the people at large to fear that we are only anxious to make a government of officials on the one hand, and a nation of serfs on the other." That your petitioners are prepared with evidence to prove that this system of encroachment upon sacred rights has tended to alienate the affections of the people of India from British rule.

That,

That your petitioners therefore request that a competent tribunal may be created in India for determining upon the pretensions of all persons who may claim to be heirs according to the law of India, to any native state, principality, jagheer, or estate, before the British Government deals with any such as an escheat, or declares it to be forfeited and annexed to the British dominions.

That a commission was appointed in 1833 to frame and compile, as was stated, a code of laws for the people of India; that, though a very heavy expense has been ever since annually incurred in maintaining that commission, no such code has been framed. Your petitioners therefore request your Honourable House to institute inquiries into the cause of this failure, and into the cost of this legislative experiment to the people of India.

That when by the Act of 3d and 4th, passed in the reign of the late king, the Supreme Government of India, seated in Calcutta, was invested with a strict control over the subordinate Presidencies, it was the intention of the Legislature that such Government should be partly composed of persons in the service of those Presidencies; that during the currency of the existing Charter, only one individual from the Presidency of Madras has been appointed to the Supreme Council, and not one from Bombay. That as the affairs of those Presidencies are neglected and damaged by the absence from the Supreme Council of persons acquainted with them, your petitioners pray that inquiry may be made into the cause of this omission, and the manner in which it has affected the welfare of the subordinate Presidencies.

Your petitioners therefore humbly pray, that your Honourable House will refer the matter of this petition, and the facts and statements therein set forth, for the investigation and report of the Committee of your Honourable House appointed to review the conduct and affairs of the East India Company.

And your petitioners will ever pray.

Joseph Hume.
John Briggs.
Thos. Dickinson.
&c. &c. &c.

The humble Petition of the undersigned Ministers of the Gospel resident in Western India.

Showeth,

That your petitioners are members of various Protestant denominations, and most of them having resided a considerable time in India, have had many opportunities of becoming acquainted with the condition and character of the natives of this country, among whom most of your petitioners have been and are employed in labour, with a view to their enlightenment and conversion.

That your petitioners are very deeply interested in the welfare of India, and have accordingly watched with anxious solicitude the deliberations of the British Parliament on questions bearing on the advancement of this country; and that it is their most earnest hope and prayer that your Honourable House may be endowed with wisdom from on High, so as to be led to the adoption of measures, especially when the renewal of the Charter of the East India Company is under consideration, which shall tend to the honour of the British nation and the welfare of this great country, whose interests, under God, have been so wonderfully entrusted to the care of Britain.

That your petitioners intend to call the attention of your Honourable House at present only to a few of the many points craving careful consideration at this important juncture, as connected with the well-being of India, but that your petitioners by no means desire it to be inferred that they consider the points to which they may not advert to be unimportant or uninfluential. On the contrary, your petitioners believe that there are many things connected with the social and economic state of the country—the administration of justice, and other subjects, which deserve the most earnest consideration of your Honourable House.

That your petitioners intend to confine their remarks to matters bearing on the intellectual, moral, and religious well-being of India.

That your petitioners cheerfully and gratefully acknowledge that, in connexion with such vital subjects as have now been mentioned, the Government of this country, with the sanction of the British Parliament, has on several occasions successfully exerted its power with a view to the suppression of serious evils; and that especially the abolition of suttee, the efforts to suppress infanticide and thuggism, the discontinuance in many instances of Government connexion with idolatry, and the protection of the rights of conscience by the Indian Act XXI. of 1850, form a ground of much joy and thankfulness on the part of all those who desire to behold the establishment of truth and righteousness in this land.

That your petitioners, nevertheless, are deeply convinced that great and serious evils still exist, to which it would not be difficult to apply a remedy.

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I. That, in the first place, your petitioners would direct the attention of your Honourable House to the relation which exists between the Indian Government and the religions of the natives of the land. Your petitioners would preface their suggestions by the remark that it is the duty of Government itself to prosecute inquiries into this vitally important subject; that, in a country whose administration is conducted, like that of India, on a principle of the strictest secresy, it is exceedingly difficult for parties unconnected with Government to obtain that precise and detailed information on which any appeal could be founded, even where deplorable evils undoubtedly exist. Your petitioners are convinced that the support still given to idolatry throughout India would, by its magnitude, astonish the Government itself, if all the ramifications of the subject were traced out. In the Parliamentary Returns the sum annually expended by Government for the support of idolatry, in the Bombay Presidency, is set down at seven lacs of rupees (Rs. 698,593. 7. 4.), but your petitioners believe that the amount is in reality considerably larger even than the enormous sum now specified. There is scarcely a village, however wretched, over the Maratha country, in which there is not some temple or shrine supported at Government expense; and your petitioners, after much inquiry, have been led to the conclusion that many of the charges connected with such institutions are either not embodied in the public accounts, or find their way into these under a name which does not show their real nature and application. Generally speaking, the same appropriations from the revenue are made by the British Government to temples, &c. ander the general name of Grám Kharch, or village expenses, which were granted by the native princes at their own discretion, and without a chartered endowment. This arrangement has all the deplorable effects of a Government establishment of heathenism.

That your petitioners will not dwell on the evil as it exists in distant parts of India, and will merely confine their remarks to their own presidency; but they cannot refrain from expressing their deep regret and astonishment that the case of the temple of Juggernnath, which has acquired an unhappy celebrity throughout all the civilised world, should to this day remain in so unsatisfactory a position.

That your petitioners cheerfully acknowledge that in their own presidency an important step has been taken in the appointment of committees of natives to administer the revenues of native temples, but regret that a virtual connexion between Government and these temples is still in some cases maintained, inasmuch as these committees or trustees are theoretically the deputies of the Government. Your petitioners humbly beg that vacancies among such be filled up solely by the natives themselves, and that the management of temples and temple revenues be subject to revision only in a court of law at the suit of those concerned.

That your petitioners farther cheerfully acknowledge an important change that has taken place in their immediate neighbourhood in the case of Dukshina Fund in Poona, which, instead of being devoted to the support of Brahmans, is now administered so as to foster the growth of native literature and schools, a change that has been already accompanied with the happiest results, and the general satisfaction of the natives. Your petitioners earnestly beg that the principle which has in this case been acted on may be consistently carried out in similar cases. Your petitioners in this connexion would crave special attention to the fact that among the allowances to native religious institutions a very large number issued by the native rulers previously to the English occupation of the country were revocable, and were clearly understood to be such. With regard to such endowments there is no difficulty in their being applied to purposes of real improvement, such as the construction of roads, the support of schools, &c. Your petitioners are convinced that, while anything like a confiscation of such revenues to the general purposes of Government would excite alarm and displeasure, their application to purposes of local improvement would in most cases meet with no opposition, provided the rights of the present possessors of the endowments were respected, and their application altered only as these successively died out.

That your petitioners regret to think that, although an important change in the form of administering oaths to natives has been introduced into the courts of the Honourable East India Company, yet in the supreme courts of judicature at the presidencies, the oath is still administered to natives in such a manner as affixes the sanction of Government to the heathen religions.

That your petitioners would next bring to the notice of your Honourable House the honours paid to Hindu princes in their religious festivals, especially the Holee and the Dussera. It is a remarkable fact that the highest honours are not paid to Hindu princes on their birth-days, review-days, or other occasions in which their royal dignity is prominently brought forward, but are rendered only on those days on which the princes appear as leaders in idolatry. When the only occasions throughout the year when British troops are called out of their cantonments, and beyond their own limits to salute Hindu rajahs, are idolatrous festivals, and when the only regularly recurring visit paid in state by a British Resident to a Hindu rajah is on an idolatrous festival, your petitioners cannot be surprised that the natives should consider that the honour is paid more to the festival than the prince; nay, your petitioners humbly but earnestly suggest that in the sight of God and man the British authorities are thus fully implicated in the support of that idolatry to which their presence gives eclat. Your petitioners regard the remedy as plain and easy. Let the honours to native rajahs be systematically rendered on occasions not idolatrous, such as those specified above; birth-days, coronation-days, or review-days.

That

That your petitioners trust it is not necessary for them to declare that in all the above suggestions they have scrupulously maintained, what in all circumstances ought to be maintained, the most perfect toleration and freedom of the rights of conscience. They desire no Government interference against idolatry; all that they crave is that there be none in its support.

II. That, secondly, the subject of Indian education deserves the earnest consideration of your Honourable House, the great mass of the population of this country being sunk in a degree of intellectual and moral darkness which to a resident in Europe is hardly conceivable; a grievous evil in itself, and the fruitful source of many other deplorable evils.

That of the three educational agencies at work in India, viz. the Government system, the missionary system, the native system, the first comprehends, even in the Bombay Presidency, in which it is comparatively larger than in other parts of India, according to the last report, under 13,000 pupils; the missionary one comprehends in all India between 60,000 and 70,000 pupils, male and female, a number seemingly large, but small in proportion to the exigency of the case; the native system of education is still more widely extended, but it cannot be reckoned as at all efficient; if it keeps the mind of India from retrograding, it has accomplished all that can be expected from it. An extension of the means of education, therefore, is one of the most pressing wants of India; especially of education in the country districts, and in the vernacular languages.

That your petitioners are well aware of the difficult problem which the Christian Government of India has to solve in accommodating an educational scheme to the inhabitants of a heathen country; and are willing and desirous to make every proper allowance for imperfections and evils unavoidable in such a condition of things. Nevertheless, your petitioners cannot refrain from solemnly declaring that they contemplate with great alarm the effects already resulting, and likely to result, from a national system of education from which Christian instruction is systematically and authoritatively excluded, even in the case of those who might be willing to recive it.

That your petitioners cannot omit to draw attention to one serious evil connected with Government education in Western India, viz. the encouragement extended to caste prejudices and intolerance. Although no specific regulation exists by which the lowest castes are excluded from Government schools in this presidency, yet it is the universal belief of the natives that such castes are not admissible; and your petitioners are fully aware that applications for admission by low-caste men have been made, and, with the full knowledge and sanction both of Government and the Board of Education, have been rejected. That your petitioners are wholly at a loss to understand the grounds of such rejection of the lower classes, and earnestly solicit the redress of a grievance for which no grounds, even of expediency, not to speak of justice, can be shown. This exclusiveness in the Government system of education in Western India is the more intolerable, because in Madras it has been emphatically repudiated.

III. That, thirdly, your petitioners contemplate with exceeding alarm the state of intemperance among the natives of Western India; it being an undoubted and most melancholy fact that intemperance has greatly increased for years past, and is still rapidly increasing; this being especially remarkable in the Maratha country, in which, previously to its occupation by the English, the use of intoxicating drinks was very limited.

That your petitioners cannot divest themselves of the apprehension that, unless recourse be had to some far more potent check than any now in operation, the most frightful demoralization and degradation are in consequence inevitable throughout a large portion of the native community.

That your petitioners are convinced that the licensing system at present in operation tends to the increase of the fearful evil of intemperance, especially because it removes, in the estimation of the natives, the stigma of disgrace which the native governments and the natives generally have hitherto attached to it. Although your Honourable House may hardly be prepared for the fact, a Government tax on liquor conveys to the native mind the idea rather of patronage than of toleration; and, in country districts at least, the farming system has been widely interpreted as affixing the high sanction of Government to this degrading and ruinous vice.

That your petitioners submit that an early application of some efficient remedy for this rapidly extending evil is exceedingly desirable; and that the natives themselves so earnestly desire it, that a recurrence to the practice of the native governments, which applied stringent restrictive measures to the use of intoxicating drinks, would receive the hearty approval of the more respectable classes of the native community.

IV. That, fourthly, your petitioners view with no less sorrow the traffic in opium carried on by the Government of this country. The evil to the inhabitants of India is exceedingly great; the use of this poisonous drug is rapidly extending throughout the opium-growing districts and those adjacent, such as Gujarat, and is producing the most baneful effects. Your petitioners farther cannot think of the contraband trade in opium with the Chinese empire without the deepest regret, since the revenue raised from opium by the East India Company,

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Company, under the sanction of Parliament, implicates the British authorities as partners in this demoralizing and ruinous traffic.

That, finally, your petitioners earnestly trust that your Honourable House will accord to the points which have now been specified, and to all kindred suggestions connected with the well-being of this country, that deep and careful attention to which their momentous character entitles them; and that, under the guidance of Almighty God, who alone giveth wisdom, your Honourable House may be brought to such conclusions as shall constitute the present juncture a new and better era; the commencement of a period during which India shall itself pursue a course of true and solid happiness, and even cause the blessing to overflow to other lands; for, adverting to past ages, in which this country exerted a powerful influence on surrounding kingdoms, your petitioners will cherish the pleasing hope that, with the enriching favour of Almighty God, the day may ere long arrive when India, enlightened and blessed, shall wield an influence over the other nations of Asia not inferior in degree to that which she possessed of old, and greatly more beneficent in character.

And your petitioners will ever pray that the Spirit of God may at all times guide the deliberations and resolutions of your Honourable House, so that the righteousness which exalteth a nation may, through your instrumentality, be mightily advanced throughout all the territories of the British empire.

D. O. Allen, A.M., of the American Mission.
H. Ballantine, of the American Mission.
George Candy, Corresponding Secretary, C. M. S.
&c. &c. &c.

Bombay, 17 December 1852.

The humble Petition of the Madras Native Association, and others, Native Inhabitants of the Presidency of Madras,

Showeth,

1. That your petitioners, availing themselves of the Parliamentary investigation into the condition and government of British India, under the charter of the East India Company, now near the term of its expiration, desire respectfully to place before your Honourable House some few of the many grievances and wants belonging more immediately to the inhabitants of the Madras Presidency; claiming at the same time the indulgence of your Honourable House, should their statements be found less explicit than diffuse, from the impossibility of obtaining access to official documents, capable of substantiating so fully as your petitioners could wish the various complaints they have the honour to present; the local government having declined replying to a written application from the association (dated 15th April 1852) for permission to have copies of necessary papers, and the officers of Government being prohibited from furnishing them.

2. That the grievances of your petitioners arise principally from the excessive taxation and the vexations which accompany its collection; and the insufficiency, delay, and expense of the Company's courts of law; and their chief wants are, the construction of roads, bridges, and works for the supply of irrigation; and a better provision for the education of the people. They also desire a reduction of the public expenditure, and a form of local government more generally conducive to the happiness of the subject and the prosperity of the country; and to these main points your petitioners beg the consideration of your Honourable House, respectfully applying in behalf of themselves and their countrymen for those remedies and reforms which, in the wisdom of your Honourable House, may be deemed expedient and practicable. With this brief explanation, your petitioners proceed to detail:—

Revenue.

3. That, the Hindus being for the most part an agricultural people, the chief revenue of the state is derivable from its crops; which have been taxed or assessed under different modes by the Hindu, Mahomedan, and English Governments respectively. With the Hindus, the revenue was collected from each village, through the medium of persons making over to the officers of Government its division of the produce in kind, amounting from one-sixth in time of peace, and to one-fourth in times of war or state emergency, as laid down in the institutes of Manu, translated by Sir William Jones, chapter vii. verse 127, "Let the king oblige traders to pay taxes on their saleable commodities; of grain an eighth part, a sixth, or a twelfth, according to the difference of the soil and the labour necessary to cultivate it;" and in chap. 10, v. 118, "A military king who takes even a fourth part of the crops of his realm at a time of urgent necessity, as of war or invasion, and protects his people to the utmost of his power, commits no sin;" and v. 120, "The tax on the mercantile class, which in times of prosperity must only be a twelfth part of their crops, may be an eighth of their crops in a time of distress, or a sixth, which is a medium, or even a fourth, in great public adversity."

4. That this proportion continued to be exacted till the invasion of the Mahomedans, as is apparent from Ferishta, translated by Briggs, where it is found, page 453, vol. iv., "One of the earliest acts of the first king of Cashmere in the year A.D. 1326 was to confirm for ever the ancient land-tax, which amounted to 17 per cent., or about one-sixth of the whole produce of the land;" and in the Ayeen Akbery, vol. i. part ii. p. 245, it is stated, "In

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"In former times the monarchs or rajahs of Hindostan only exacted one-sixth of the produce from the cultivator." But in the early part of Mahomedan rule, according to Ferishta, the King of Delhi raised the tax to one-half the produce; that of the wet cultivation being delivered in kind, and of the dry, generally in money, at a fixed commutation; and the zamindary system having been then introduced, the payments were made to the zamindars, who were either farmers of the assessment, or persons to whom districts had been granted by the ruling power, in return for past, or the expectation of future, services.

5. That when the British Government first assumed territorial property and rights in this part of India in 1759, they found the Northern Circars divided into zamindaries, pallams, and ain-lands. In the last-mentioned, the ryots paid government dues to the servants of the state, or to renters, who farmed the revenue; in the two former, the dues were paid to the zamindars and poligars, who held their property hereditarily and disposably, so long as they paid the peishcash or tribute, in consideration of which the management of the lands had been made over to them; and this practice was permitted to continue unaltered till the year 1769, when three boards, or councils, were established, who managed the revenues, and ruled the country till the year 1789, when a fixed settlement was made with the zamindars, whose revenues were estimated, and they were made to pay one-third of their rental to the Government; and the lands hitherto managed by stipendiary officers, or farmers, being placed under the control of collectors, were parcelled out into divisions, called moottahs, and their tenures sold by public auction. The same plan was acted upon in the new acquisitions of the Honourable Company, till the year 1799, when the permanent settlement of Lord Cornwallis was ordered to be introduced, although in the interim, on the occupation of Baramahal and Dindigul in 1793, Colonel Read had been making out a new plan, which, on the failure of that of Lord Cornwallis, after a trial of three years, 1803-4-5, eventuated in the ryotwar system, which, with very slight modification, is now prevalent in 17 out of the 20 collectorates forming the Madras Presidency, under which the entire assessment is collected in money, and from each individual cultivator, directly by the deputed servants of the State.

6. That your petitioners, as Hindus, and naturally attached to their national and ancestral customs, have had, and continue to have, the greatest repugnance to the innovations of both the zamindary and ryotwar systems; the more so, as they are both the instruments of injustice and oppression, but especially the ryotwar, the operation of which has reduced the agricultural classes to the deepest poverty and destitution. Ryotwar.

7. That this system was introduced for the double purpose of preventing the accumulation of landed property by the natives, the zamindarships being hereditary, regarding which, when recommending the ryotwar system, Sir Thomas Munro records in his minute of the 15th August 1807, the following observation:—"That the great zamindar defies all authority, and will keep the ryots as poor as they have always been, and the small one, or mootahdar, will endeavour to imitate him in his state and armed followers; that though most of the mootahs will finally resolve into ryotwar farms, many of the greater ones will assume the character of zamindaries or poligarships; that the country will be filled with petty armed chiefs, who may hereafter combine to disturb the public tranquillity; and that the system is, on the whole, detrimental to the country, and dangerous to Government." And the desire of rendering each individual cultivator immediately dependent on the authority of the State, while it was imagined that it would altogether exempt him from the vexatious intermeddling of the subordinate servants of the Government; consequently it involved the parcelling out of the whole country into innumerable small portions, varying from one to ten or more acres, or whatever standard of land-measure might happen to be that common in the district. That could not be effected without a complete measurement of each province into which the system had to be successively introduced, and of course the separate valuation of every minute portion, in order to fix the precise rate of its individual assessment.

8. That this most intricate and at the same time gigantic plan was commenced without the aid of a single surveying instrument, except a chain of 33 feet, or a glimpse of scientific knowledge beyond that of the native cutcherry gomastahs or clerks, who, as a part of their duty, were to instruct others in the art of mensuration, an art in which, being completely untaught themselves, they had to acquire from no better education than the progress of their own survey. These clerk surveyors were paid 21 rupees per month, and "were encouraged to be expeditious by the hope of gain, and deterred from being inaccurate by the fear of dismissal;" and when to the utter incompetency of these clerk measures is added the fact that the fields of a village are often confusedly intermixed, not only among themselves, but with the fields of other villages, as, for instance, in a part of the Shealley talook of the Tanjore collectorate, where, within the space of two and a half square miles, there are parts of 17 villages, and even these parts of villages are each not a single connected piece of land, but the combination of several detached fragments, while in some places two or more villages are composed of fields belonging to one and another village alternately, and others where four-fifths of a single field belong to one village, and one-fifth to another, it will be manifest that anything like a correct survey, or even an approximation to it, must have been an absolute impossibility, and it is a well-known and positive fact that there is not, and never has been, any establishment whatever for land surveying, neither has a correct survey been made of any individual portion of the Madras territories up to this day.

9. That

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9. That one of the immediate consequences of this gomastah measurement was a vast increase in the quantity of land over the ancient measurement by the curnums of villages, the persons who are stated by Sir T. V. Stonhouse, a revenue officer of acknowledged ability, in his "Observations on the Ryotwar of the Madras Presidency," "to have sertainly the best knowledge of land measuring of any other class of persons in India." This increase in some districts was so great as 75 per cent, and, as it was impracticable to augment the revenue in the same proportion, the new measurement in these particular cases had to be adjusted by the old, a convincing proof that the attempt was a hopeless failure.

10. That in proceeding from the survey to the classification of the land the task was scarcely less formidable, and it was begun by sending two assessors to classify the space measured by ten surveyors; their business was to arrange it under the principal divisions of wet, dry, and garden land, subdividing these again into various classes according to the presumed quality by a process so perfectly arbitrary, that in some districts the wet land had 12 classes, the dry 20, and the garden land as many; in others the wet had four classes, the dry 12, and the garden four, while it was of continual occurrence that two fields adjoining each other would be entered in different classes, and even single fields were placed in the same improbable if not impossible category. As might have been expected, these assessors, partly from ignorance, and partly from the persuasion of bribery, made a great many erroneous classifications, and accordingly it was thought advisable, for the sake of producing uniformity and checking abuses, to appoint five head assessors selected from the body of subordinate ones; but even these could not be trusted for judgment and impartiality, and the whole of their revisions had to undergo a complete examination at the collector's cutcherry.

That the classification having been thus settled, not by the returns of the assessors, but by the arbitrary opinion of the cutcherry, the next step was to fix such a sum as it was thought would be the fair assessment for the district in its then present state, that furnished by the assessors being mistrusted equally with their classification, which operation immediate reduced the assessors' estimate from 5 to 15 per cent. on the aggregate; and the next step was to distribute the sum fixed as the aggregate of the district among the different villages it contains, thus causing a second alteration in the assessors' estimates, and by which what was deducted from one set of villages was added to another; after this a third alteration had to be made at the end of the year, causing a further reduction on fields asserted by the cultivators to have been over-assessed, and it usually amounted from one to one and a half per cent.

12. That, having thus briefly alluded to the utter futility of the measurement, and the fallacious classification of the land, your petitioners would next call the attention of your Honourable House to the amount of the assessment, and its commutation into money. The amount exacted under the Hindu princes never exceeded one quarter, or 25 per cent on the gross produce; this the Mahomedans doubled, acting on the principle that the rights of a conquered country cease and determine by the act of conquest, the proprietary right of the land being transferred to the conquerors, and that, as it is lawful to take the whole of the persons and property of infidels, and to distribute them among the Musselmans, it follows that taking only half their incomes was an act of mercy.

13. That this amount of revenue, fixed by the principles of the Koran, has continued to be exacted by the East India Company, but your petitioners apprehend, without the same appearance of justice, for to say nothing of the difference of creed, the way in which the Company obtained possession of the country is strikingly dissimilar. The Mahomedans conquered by and for themselves, but from the earliest date of the Company's acquisitions on the coast of Coromandel, they have always had the assistance of the natives of the country; first, as armed peons, and subsequently as trained soldiers, who have stood by them in all their battles, whether against other European powers or the Mahomedan dynasties from whom the conquest was achieved, and who now form seven-eighths of the military force by which the British territories are defended; consequently the people claim to be regarded by the English as friendly allies, rather than infidels and vanquished enemies; and, as the Company profess to govern for the benefit of the country as well as for their own, something more ought to be left to the cultivator than the miserable pittance required for the support of himself and family, and for seed; and yet even so much as this pittance is not left him under the operation of the ryotwar system.

14. That, adopting the amount of one-half as the revenue due to the State, the authorities of the day commuted this share into money, in what way your petitioners cannot say, as Colonel Munro, the principal agent and authority, has not explained it in any of his reports, nor has he imparted any information as to the data and principles on which he formed his tables of rates for the different classes of lands, and even up to this date there is no fixed system of commutation, but different modes are practised, not only in different districts, but even in the various subdivisions of each district. The immediate consequence of this commutation was a gradual and general fall in the price of all grains, which, for a long series of years past, has been so low as to reduce all but the most substantial ryots to a state of almost beggary; thus, for instance, as in the southern division of Arcot, where the price at the date of its survey was five cullums per pagoda, on a piece of land producing 100 cullums, the half share of 50 cullums being converted into money, paid the Government the sum of 10 pagodas; but as the present price is seven cullums per pagoda, the

the ryot must dispose of 70 in order to meet the assessment, retaining for his share only 30, which gives him 42-7ths pagodas in the place of 10, while the Government receives 10 pagodas as the half share of 142-7ths pagodas, the selling price of the 100 cullums; and a similar deterioration in the value of grain has taken place throughout the whole presidency.

15. That the extent of this evil is shown in a voluminous Minute of the Board of Revenue, dated 5th January 1818, which acknowledges that, "while the ryotwar survey assessment professed to fix an equal and moderate tax in money on each field, in almost every instance it greatly increased the Government demand upon the country. In Dindigul it nearly doubled the public assessment. In Baramahal it increased it 21 per cent. In the northern division of Arcot, the additional imposts and illegal exactions of the renters under the (former) native governments were, by the ryotwar survey, incorporated with the land rent. In Nellore the highest rate of teerva (money payment) fixed on the finest land was alone declared to be the ultimate limit of the Government demand upon all land; and even in the ceded districts, where it was perhaps most moderate, the demand on the land was raised so high as to be in general greatly beyond the resources of the people."

16. That, Sir Thomas Munro having returned to Europe in the year 1807, and these evils of the ryotwar exceeding all bounds, the Government of Madras had recourse, in the year 1808, to the partial introduction of the village settlement; first for three, and subsequently for ten years. Under the triennial settlement the lands were rented out to contractors, the average collection being taken into consideration, and the highest proposals accepted; and, this being found but little less objectionable than the ryotwar system, the next resource was the decennial settlement, on the principle of assessing for the said term of years a fixed sum as public revenue; and in consideration of the payment of that sum, making over for that period the Government right to the public revenue from the entire land of the whole village, both arable and waste, to the village community, by a direct settlement with the whole body of ryots collectively, or with the heads of the village. When the village was not rented in this manner the public revenue was collected either by an intermediate renter or by the officers of Government, and in kind or money, as might be the local custom.

17. That this system was progressing in a manner most favourable to the ryots and the public revenue, when, in the year 1818, the Court of Directors having determined upon enforcing the ryotwar, ordered it to be resumed and prosecuted under a modified form, called the field ryotwar; and when, in the year 1820, Sir Thomas Munro arrived in Madras as Governor of the presidency, the exorbitant taxation of the old system was sought to be alleviated by a reduction of the assessment, to the amount of 25 per cent. on dry and wet lands, and 33 per cent. on garden lands, in the ceded districts, where the Board of Revenue esteemed the assessment "most moderate." A reduction of 12½ per cent. was also made in the district of North Arcot, and similar reductions were directed to be made in other districts, conditionally. Remissions are likewise taking place on account of failure of crops from year to year; but these partial changes, forced upon the Government by necessity, have little or no effect on the evils inherent to the system, which press the more heavily on the ryots, because it is almost entirely under the management of the collector's deputy, the tehsildar, who, as his executive officer, possesses all the power of the collector, fiscal, police, judicial, and miscellaneous, and the control not only of his own immediate establishment, but over all the village officers within his district, which contains, on an average, from 100 to 300 villages, with a revenue from one lack to two and a half lacks of rupees.

18. That the tehsildar of each talook—such is the denomination given to his division—on the 12th day of July in every year, proceeds (in some places by himself, in others by his subordinates), to fix the quantity of land to be taken up collectively and individually for the year ensuing. By this settlement, called the dittum, or fixation, each ryot ought, by the 4th section of "Standard Manual of Rules," dated 10th January 1850—"occupants of land are at liberty to enlarge or contract their holdings in both cases (*i. e.*, as to increase or decrease) by entire fields"—to have only such land as he chooses to accept; but really, owing to the tehsildar's authority, he is compelled to take such as this officer is pleased to appoint, and it is only by the force of bribes, smaller or larger, according to circumstances, that the ryot is permitted to escape from an oppressive allotment as regards its quality.

19. That at the time of this settlement all the poorer ryots, by far the more numerous of the entire body, stand in need of advances for the purchase of bullocks lost during the past year, as well as for seed, the repair of their own wells, and implements; and in order to procure hired assistance from those who have not taken up any dittum; and the Cirkar or Government generally allows advances of money, called tuccavy, to be made on this account, security bonds being taken from the surety; but as the allowed sum is always far too little to meet the wants of all the applicants, there is necessarily a competition for the tehsildar's favour in its distribution, for which he obtains from the successful candidates a bonus or deduction from their respective advances, averaging ten per cent. upon the whole tuccavy; and thus the ryotwar system, whilst it professes to raise the ryot from poverty to independence, by inducing him to cultivate on his own account, actually tends to saddle him with an annually augmenting load of debt, and converts him from a poor but free labourer into a beggar and a slave. On the general effects of this system of encouraging cultivation, your petitioners quote the following remarks from the work of Sir T. V. Stonhouse, before quoted:—

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Report. 15 August 1847.

"As regards tuccavy, or advances for cultivation, it was a principle of Sir T. Munro's ryotwar that tuccavy was to be gradually discontinued; and has it been so even in the ceded districts, although a period of nearly 40 years has elapsed since that rule was made? Are not tuccavy advances still made year after year to the ryots of Bellary and Cuddapah? The records of the Board of Revenue and of the Government can supply the answer. The tuccavy advances in Bellary are so large as very recently, I believe, to have attracted the notice of Government, and to call for explanation; and it is only in consequence of the stringent orders from the Court of Directors, four or five years back, that the annual advances for tuccavy in the several districts have been considerably reduced. The average advances of the last five years have been only 3,52,872,* while that of the preceding five years was 6,73,579 rupees,† and in previous years still larger; and the discontinuance of tuccavy in the course of time, like the rest of the advantages expected from the introduction of the ryotwar system, has proved a mere illusion, and one of the many fanciful theories of the system doomed to end in no practical result."

It often happens, when impoverished ryots absent themselves on the day of dittum, to avoid having again forced upon them the occupancy of lands by which they incurred loss at the previous jummabundy, that these lands are forced by the tehsildar on one or other of the ryots who are present; and when there is a failure of rain for the cultivation of the dry lands, which pay a lighter assessment than the wet, if the ryot should have recourse to the water of the tanks or reservoirs, instead of being charged the fixed water fee levied on wet lands, he is compelled to pay the full assessment for a wet crop.

20. That the aforesaid water fee is levied for the declared purpose of repairing the tanks and keeping up the usual means of irrigation; but, notwithstanding the tax is levied for this purpose, the ryots are compelled to make all the repairs required, within a certain amount; and whenever the means of irrigation is impeded, as it always is when in the monsoon rains the water floods fill up the channels with sand, the ryots are forced, under penalty of heavy fines, to quit their agriculture in order to clear out the channels, although many miles distant from their habitations, hiring labourers to do their work in their absence, and without receiving any remuneration for their labour; and the overseers of this business being the Government servants, they have thus a perpetual occasion for the exercise of oppression and injustice; for the tehsildar, being invested with magisterial powers, can and does confine at his own cutcherry all ryots who resist his demands, and whom he carries in custody along with him from place to place, as he shifts his cutcherry, until he coerces them to obedience.

21. That these are a few of the many grievances endured under the ryotwar, between the settlement of the dittum, on the 12th July, and the fixation of the kist or money amount of the assessment, called jummabundy, which takes place from the month of December to that of March following, when another officer of the collector, called the sheristadar, or head revenue officer, aided by his subordinates, proceeds to examine the dittum, and to declare the amount payable by each individual ryot, according to the previous settlement of the tehsildar, after having deducted the Government remissions, on account of crops that have fallen short, owing to damage from the weather or drought from an insufficiency of irrigation.

22. That it is an easy thing to make this jummabundy an instrument of the grossest tyranny, the single word of the sheristadar being that which determines whether there shall be any remission, and how much, or none. On the wet lands, or those cultivated by irrigation, no remission is permitted unless the produce has fallen short of the average to the amount of ten per cent.; the ryot may then apply for a remission; but, as by the Government regulations the verification of the sheristadar is indispensable in order to render the application successful in the ear of the collector, the sheristadar has every applicant at his mercy; besides which, during the whole time of this settlement, the collector's establishment has to be supplied with provisions by the ryots gratis.

23. That

	Co.'s Rupees.
* 1839–40	3,82,366
1840–41	3,16,704
1841–42	3,51,555
1842–43	3,53,559
1843–44	3,60,178
Average	3,52,872

	Co.'s Rupees.
† 1834–35	7,10,909
1835–36	6,67,930
1836–37	6,01,761
1837–38	6,42,624
1838–39	5,44,674
Average	6,73,579

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23. That the only check upon these multitudinous and never-ceasing oppressions, viz., an appeal to the superior officer, is the addition of mockery to misery. The tehsildar will receive no complaint against his inferiors, and when the ryot would approach the collector, his petition would be stopped, if possible, in its way by the jewabnevis, or interpreter; or should the petition reach its destination, it is read to the collector by this officer, who, having generally the opportunity of a previous perusal, and taking advantage of the collector's imperfect acquaintance with the vernacular, adroitly omits the most important parts, and foists in qualifying language of his own; but should a hearing be eventually granted, in spite of all obstacles and trickeries, if the ryot can produce no witness, every ryot being more or less afraid to come forward from dread of future injury, his complaint is rejected as unworthy of credence; and if he produces several witnesses it shares the same fate, on the plea that he has hatched a conspiracy in support of a falsehood. Should the ryot then carry his appeal to the Board of Revenue the complaint is transmitted to the collector, who, in reply, gives the wrong to the ryot and the right to the Government servants, and in virtue of this reply the ryot is denied further inquiry. Sometimes, indeed, the appeal is carried as far as the Governor in Council, and even, though very seldom, to the Court of Directors. But, as the Court sees through the eyes of Government, the Government through those of the Board of Revenue, the Revenue Board through those of the collector, and the collector through those of his sheristadars and tehsildars, the ryot is in every case handed over to his original tyrants and tormentors, to whom he must make pecuniary amends for his fruitless attempt to obtain redress, or stand the consequences at the next arrangement of the dittum and jummabundy, by the very Government officers from whose vexatious exactions it was pretended to set him free, by the introduction of the ryotwar system.

24. That the jummabundy having thus finally determined by the end of March the amount payable by each ryot, he is bound to liquidate it prior to the ensuing month of July, the period for the settlement of the next dittum; and, as the three intervening months are precisely those in which the price of grain is at the lowest, in consequence of the recent harvest, he has to undergo a third series of losses and misfortunes, from the circumstance of his being compelled, within that time, to turn so much of his crop into ready money as will suffice to realise the sum specified for the Government kist.

25. That, although this space of three months is nominally allowed for the realization of the kist, still the tehsildar, with whom the collection rests, is very anxious to obtain the instalments as early as possible, in order that he may at once preserve the good opinion of the collector, and avoid the fine to which he is liable, should not the whole or the greater part be liquidated before the period of limitation has expired; and accordingly he is constantly urging the ryot to dispose of his crop, which he has been permitted to reap, on giving security to the village officer that the money shall be paid, and liquidate, if not the whole, at least a part of the amount; this urging comprehending the sending for the ryot, and confining him in the cutcherry until he shall have undertaken, in presence of witnesses, to pay a stipulated instalment on a certain day, by which the ryot, in addition to the loss he sustains by being detained from his labour perhaps a week or ten days at a time, is forced to part with so much of his crop, whether cut or standing, for any price which the nearest grain merchant, taking advantage of his pressing necessity, chooses to offer. And this process of urging on the part of the tehsildar, and of sacrificing his property on the part of the ryot, continues till perhaps, for the occurrence is not unfrequent, the disposal of the entire crop failing to raise the money payment of the amount due to the State, the poor ryot has to sell his bullocks, his farming utensils, and the little rest of his property in order to make up the deficiency.

26. That in order to possess your Honourable House with some idea of the cruelties under which the ryotwar system can be, and actually is, exercised by the Government servants, your petitioners will quote an instance occurring in the year 1851, when certain ryots in the zillah or collectorate of Guntoor, unable to obtain redress from the collector, the commissioner, and the Board of Revenue, presented a petition to the Governor in Council, to the following effect:—That at the dittum settlement of the previous year, on their refusal to accept the dittum offered to them by the tehsildars of six different talooks, because it included lands that had been relinquished, and others which were not liable to assessment; and because the lands bearing assessment were then re-measured with new ropes, shorter by one cubit than the legal measure, some of them were compelled, by imprisonment and corporal punishment of various kinds, to put their names to the dittums; and when others ran away from their talooks to avoid the like treatment, the curnums of the villages forged the names of those who had absconded to the dittums that were assigned to them; they who remained complained to the collector, who said the dittums should not be altered, and refused redress; and when the jummabundy came round, on their refusal to pay the excess of the assessment, the houses of the ryots were stripped of their roofs, their ploughs, ploughing cattle, grain seed, and forage for their grazing cattle were seized by attachment and sold by auction. Some ryots were arrested as security for the balance still unpaid from the proceeds of the auction; the houses of others were broken into and plundered by the peons, who were paid batta from the proceeds of the sales; their herd cattle were not permitted to graze, and their families prohibited taking water from the tanks and wells for domestic purposes. Their petition to the Governor in Council was transmitted to the collector in the usual way, when that officer applied for two years' leave of absence, and

Appendix, No. 7. and there the matter rests to this day; and, although your petitioners confine themselves to a single and recent example, they do not scruple to assert that, in a greater or less degree, these practices are prevalent throughout every division of the presidency.

27. That while such are the evils of the ryotwar, as respects the state and condition of the people, it entails no small share of evil upon the government, from the large establishment which has to be entertained for the collection of the revenue; on which point your petitioners beg to solicit the notice of your honourable House to the description given by Sir T. V. Stonhouse, in the work to which they have already referred.

"The cause of the heavy charges of management under the ryotwar system, is its endless and varied details, requiring a multiplicity of revenue officers in the talooks to keep the accounts, and so on through every gradation of office, from the tahsildar to the Board of Revenue. I do not hesitate to say that at the very lowest, one-third of the public expenditure now incurred in maintaining the ryotwar system would be saved, under a village lease or Aumany settlement, and more especially the establishment of a native board of revenue would be saved. I do not mean to affirm that this establishment is necessary even for ryotwar management, for I do not believe it to be so, and the Board of Revenue conducted its duties as efficiently before its creation. With practical revenue officers as members of the Board of Revenue it cannot be required, and its expense is not confined to itself, as the Sheristadar cannot be supposed to know the language of all district servants who are entertained in the several collectorates to render the accounts into Mahratta, that they may be intelligible to the Board's Sheristadar, his deputy, and establishment. The formation of this unhealthy excrescence on the charges collection of this presidency by Sir T. Munro, would have looked better, had not his old and favourite ceded district servant been selected by him to fill the principal offices created by it. The charges collection of this presidency have increased on an average from 12 to 15 lakhs of rupees per annum, since the introduction of the Ryotwar system, and the difference would have been still larger, but for the abolition of the principal collectorships, and other reductions made in late years in the salaries of collectors, and of their establishments, the effect of which has been to leave the latter inefficient and insufficient to carry on satisfactorily a system of revenue management so complicated and detailed as that of the ryotwar.

"During the decennial rents, or from 1809–10 to 1819–20, the charges collection for the year amounted on an average in round numbers to 25,76,000 rupees. The charges for each year are exhibited in the margin.* The charges collection since that period, or from 1820–21 to 1843–44, a period of 24 years, have averaged 38,49,000, exhibiting an average excess of annual charge compared with the former period of 12,73,000 rupees, but the average of a similar period of 11 years, or from 1830–34 to 1843–44, is 40,74,000, and gives an excess annual charge of 14,98,000 rupees, or nearly 15 lakhs of rupees. The charges collection in each year exhibited in the margin.†"

"If there are advantages therefore in the ryotwar system, the Government pays dearly for them. It might be fitting a great and enlightened Government to make such sacrifices for real and admitted benefits; but, so far from being admitted, they have from first to last been questioned, the system denounced as vicious by many of the ablest revenue officers of the Government, and their existence in no way substantiated even by the advocates of Ryotwar, or by practical results.

"It is not on the score merely of an expensive establishment that the ryotwar system proves so heavy a drag on the finances of the Government. There is further expense inherent in it, from which other systems are comparatively free, viz., charges for the repairs of

	Co.'s Rupees.
* 1809–10	24,18,074
1810–11	23,76,847
1811–12	24,11,354
1812–13	26,63,864
1813–14	23,98,741
1814–15	24,34,426
1815–16	24,41,683
1816–17	26,46,143
1817–18	27,40,360
1818–19	29,21,152
1819–20	28,88,462

	Co.'s Rupees.
† 1833–34	37,70,351
1834–35	39,30,127
1835–36	40,33,118
1836–37	40,32,928
1837–38	41,31,461
1838–39	41,37,519
1839–40	41,64,394
1840–41	41,43,481
1841–42	40,92,919
1842–43	41,37,218
1843–44	42,45,247

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of tanks and other sources of irrigation. This is a heavy annual drain upon the revenue of the country, and much of it, owing to the defectiveness of local check and supervision, unprofitably spent, or rather not spent at all, but which finds its way into the pockets of the public servants. Even so far back as 1828, the Court of Directors noticed the heavy charge it occasioned on the finances of the country, and observed that, although they were far from entertaining a wish that anything necessary for so desirable an object as the irrigation of the country should be withheld, it was of high importance that these charges should be under the strictest control, and be distinctly brought to their notice at the periods of their necessary occurrence. The amount expended on this account from 1805–06 to 1843–44 has been upwards of 243 lakhs of rupees, and the average expenditure of the last five years has been upwards of six lakhs.*

"Under a zemindary settlement the Government is relieved from this heavy annual expense, and under a village settlement is relieved of a great portion of it; for, under a village rent fixed on the low scale adopted for a Ryotwar settlement, there would be no necessity for the Government to undertake or be responsible for repairs beyond those of masonry works. All earthwork to bunds of tanks and the clearing of channels should devolve upon the villagers, who would do it much more effectually in their own way, and at not a third of the amount disbursed by Government on such works. Such a measure would only be a return to the usage of the country. Another disadvantage of this system, of throwing the whole expense of tank, &c. repairs on the Government, is that it forces cultivation and militates against that principle of the ryotwar system which leaves the cultivator at liberty to cultivate as much or as little as he pleases. This is a fundamental rule of the ryotwar system. 'It must be clearly understood,' say the Board, 'that the revenue is to continue as at present, subordinate to justice; that freedom of labour to the Ryots is, by the Court of Directors themselves, declared to be the basis of the new settlement; and that, therefore, no restraint whatever, inconsistent with it, can be imposed upon them.' The same principle was also clearly prescribed by Sir T. Munro himself during his government. 'The ryots should be allowed to cultivate as much or as little as they please: they will always occupy as much land as they can cultivate profitably, and it is not the interest of Government that they should cultivate more.'

Minute, 5 January 1818.

From Government, 8 September 1820, to Board of Revenue.

"Every revenue officer knows that, if this rule were observed, the Government would scarcely receive half the revenue it now does. If ryots were allowed to cultivate as much or as little as they please, or, to use the language of Government, those lands only which they could cultivate profitably, a very large portion of the land now under the plough would be thrown up. In practice it is altogether different, and, whatever impressions may be entertained by the Board of Revenue, the Government, or the home authorities, the truth is, that cultivation is forced all over the country. The tahsildars, in spite of rules and regulations, will not allow of the relinquishment of lands, for this reason, that, as tahsildar, it is his endeavour, for his own credit and character, to bolster up the revenue of his talook. I say that cultivation is forced all over the country, and it is right that it should be so, to a certain extent, with reference to lands dependent on sources of irrigation, for the preservation of which the Government incurs an annual heavy expense. It was a principle laid down by Sir T. Munro himself, and how he reconciled it in his own mind with his principle of an entire freedom of occupancy, and with the privilege he accorded to the ryot of cultivating as much or as little as he pleased, I am unable to discover. In his Minute of the 31st December 1824, Sir T. Munro declares that 'Government, by the construction of tanks and watercourses, supplies the water, which is the chief article of expense in wet cultivation, and has a right to see that the lands on account of which it has incurred so heavy a charge are not, without necessity, left uncultivated or exempted from their share of the public burthens.'"

28. That, at the same time, the system can boast no superior excellence as affecting the improvement of the revenue, as is apparent from the annexed quotation, taken from the same work:

"The

	Co.'s Rupees.
* 1839–40	6,52,877
1840–41	7,11,163
1841–42	6,10,184
1842–43	5,32,819
1843–44	5,10,558
Average	6,03,520

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"The marginal statement* exhibits the land revenue of Madras from 1820, from which time the ryotwar has been generally the mode of settlement up to 1844. The average of the first six years is 331,98,788 rupees; of the next six years, 311,53,725 rupees; of the next six years, 304,24,093 rupees; and of the last six years, 330,51,584 rupees. During the second six years the average fell below the preceding six about 20 lakhs of rupees; during the next six it experienced a further fall of about 7 lakhs, and, though the average revenue of the last six shews an increase of about 26 lakhs over the preceding six years, it is still below the average of the first six years. During the last six years there has been a succession of most favourable seasons and abundant produce, and hence the exceeding low price of grain which has been so much felt all over the country for the last four or five years. These results, however, go to prove conclusively that the ryotwar system is not calculated to improve the revenue. The land revenue of Bellary and Cuddapah since 1820 is exhibited in the margin, and it will be seen if there has been much improvement even there.

Report, 15 August 1807.

"Sir T. Munro has stated that, under a ryotwar settlement, the annual fluctuations in the amount of revenue will never be so great as to cause any serious inconvenience. It would never in any one year exceed 10 per cent. in an aggregate of six or eight collectorates, though it might be more in a single one. It would gradually diminish as the ryots became proprietors, and would in 10 or 12 years scarcely ever be above 5 per cent.

"Now, a glance at the marginal statement will demonstrate whether Sir T. Munro's expectations can in any degree be considered to have been realised, even with his low assessment of the government tax, being only, as in the zamindary settlement, one-third of the gross produce. In Bellary, we find the revenue in 1827 falling nearly four lakhs of rupees below the preceding year; in 1833 we find it falling three lakhs below that of the preceding year; and even as recently as 1838, falling nearly four and a-half lakhs of rupees below the revenue of the preceding year, or from 20 to 25 per cent. In Cuddapah we find it in 1832 falling five lakhs, or to rupees 13½ lakhs, from 18,80,000 which it had been in the previous year. The total revenue of Bellary, for the first 12 years of the period embraced in the marginal statement given above, was, in round numbers, 257,83,000; in the last 12 years, 255,01,000; or a diminution of 2,82,000. So much for improvement and an augmented revenue from the waste lands! In Cuddapah the results have been still more unfavourable. The total land revenue received from that district during the first 12 years of the period indicated was, in round numbers, 236,71,000; in the last 12 years 230,68,000, or a diminished amount of six lakhs. View the ryotwar in any way we please, either in regard to its principles or to its fiscal results, I can discover nothing to recommend it but the statements of Sir T. Munro; I cannot discover any of those beneficial results which he expected would flow from its adoption, but, on the contrary, much evil, and, not the least, the destruction of the village constitutions. But the Court of Directors seem to think that it has been successful in Coimbatore. 'As we entertain a high opinion,' the Court say, in a revenue despatch, to the Bombay Government, 'of the ryotwar

23 May 1827.

settlement, which has been successfully introduced into the province of Coimbatore, we desire that you will obtain from the Government of Fort St. George information respecting the nature and principles of that settlement, with the view of introducing similar arrangements in all practicable cases into the provinces under your presidency.' Even in Coimbatore

YEARS.	Co.'s Rupees.	YEARS.	Bellary.	Cuddapah.
* 1820 - - -	328,63,353	1820 - - -	22,78,817	23,62,350
1821 - - -	325,88,266	1821 - - -	24,16,166	21,33,612
1822 - - -	339,78,987	1822 - - -	23,81,179	22,13,651
1823 - - -	311,14,471	1823 - - -	19,68,642	17,43,159
1824 - - -	351,35,829	1824 - - -	21,73,923	19,28,795
1825 - - -	335,11,824	1825 - - -	22,74,787	19,02,645
1826 - - -	324,69,795	1826 - - -	22,52,552	20,25,103
1827 - - -	308,12,258	1827 - - -	18,90,391	17,99,465
1828 - - -	319,02,757	1828 - - -	21,93,984	18,48,984
1829 - - -	309,32,388	1829 - - -	19,31,665	18,42,840
1830 - - -	308,66,127	1830 - - -	20,15,352	19,30,602
1831 - - -	299,39,024	1831 - - -	20,05,976	18,80,170
1832 - - -	266,06,577	1832 - - -	16,97,926	13,51,213
1833 - - -	312,92,925	1833 - - -	20,93,708	18,59,458
1834 - - -	314,60,450	1834 - - -	20,41,783	19,14,051
1835 - - -	311,53,567	1835 - - -	21,21,246	18,98,381
1836 - - -	295,59,089	1836 - - -	20,37,127	18,61,483
1837 - - -	324,72,653	1837 - - -	22,45,300	20,76,367
1838 - - -	315,67,386	1838 - - -	17,92,189	17,27,566
1839 - - -	335,66,699	1839 - - -	22,54,346	21,23,602
1840 - - -	326,00,170	1840 - - -	21,88,897	20,22,382
1841 - - -	323,03,013	1841 - - -	23,25,823	21,10,208
1842 - - -	329,75,129	1842 - - -	23,10,960	20,73,560
1843 - - -	352,97,108	1843 - - -	22,70,961	20,50,678

batore it would be seen from the marginal statement * that there has been retrogression, not improvement, in the land revenue. The aggregate revenue for the first 12 years was 267,96,000 rupees; for the last 12 years, 241,81,000 rupees; or a diminished amount of revenue in the latter period of 26 lakhs of rupees. The advocates of ryotwar can hardly therefore, I think, ground their predilections in favour of the system on the score of its tendency to augment and improve the revenue when such have been the results in the most favoured districts; and, as regards fluctuations, I find that even in Coimbatore the revenue fell in one year nearly six lakhs of rupees; namely, from 20,97,000 rupees, which it was in 1835, to 15,11,000, the amount of the land revenue of 1836." And again, "Let us look now to the revenue of those districts where there has been little or no ryotwar, Tanjore, for instance, which has been under the wolungoo or village settlement of Mr. Cotton.

"In the margin † is exhibited the land revenue collections of this district in each year. The total amount for the first 12 years was 395,43,524 rupees, while for the last 12 years it was 313,76,385, or an increased receipt of upwards of 18 lakhs in the latter period. So far, therefore, as improved revenue is a consideration, the comparison, it must be confessed, is in favour of the village settlement.

"It may be said that, although the revenue has not improved under ryotwar, the circumstances of the ryots have. I have always been led to suppose that improvement in the revenue went hand in hand with improvement in the circumstances of the ryots, but here we find increase of substance in the cultivating community coupled with diminished revenue. If the ryots of Bellary and Cuddapah had really improved in their circumstances, how could the great fluctuations which it has been shown have occurred in the annual revenue, take place? Whence the necessity of the large advances of tuccavy, which are now annually made in these districts? These are fair deductions from general principles. There is, however, more positive testimony as to the real state of some of the districts. In Salem, where the ryotwar was first introduced, we find the collector stating in 1833, that the ryots were so poor as to be living from hand to mouth. We find the collector of Trichinopoly, in 1831, stating that in a district so long under the Company's management as Trichinopoly, with a very extensive market in the neighbourhood, it would have been natural to suppose that a large portion of the soil would have been under tillage, but that the reverse was the fact, and that of the dry lands in three out of four dry talooks, not more than one acre in ten was cultivated. We find even Mr. Sullivan, on quitting Coimbatore, in his Report of the 20th January 1830, stating that at the time of the survey, a tract of country which yielded an annual revenue of nearly a lakh of rupees, was then (when he wrote) in the possession of elephants.

Evidence of Colonel John Munro, on the renewal of the Charter in 1832.

"The only province which may perhaps be taken as the most successful application of the ryotwar settlement, and of field assessments, is Travancore. The land tax is there fixed, and is based upon a revenue survey, but a fresh survey is made every 10 or 12 years, in which alterations are inserted according to the lands brought into cultivation, or those thrown up. The periodical surveys are stated to have been the established habit of the native government. The original survey comprehended the whole country, waste and cultivated. The occasional service included the cultivated lands only. Every field, with its rent, was inserted in the survey, with its proprietor, and it was entirely a ryotwar settlement. The mode of determining the field assessment seems to have been, to fix it at certain ratios of produce to the quantity of seeds sowable, which were determined by the quality of the soil.

"The partial success, however, of the ryotwar system in Travancore, may be accounted for; it has existed from ancient times, and is the established usage of the province; the land

	Co.'s Rupees.		*Co.'s Rupees.*
* 1820	21,57,920	1832	20,87,804
1821	21,47,050	1833	19,35,357
1822	22,31,743	1834	20,64,073
1823	21,63,482	1835	20,97,729
1824	22,65,357	1836	15,11,803
1825	22,98,895	1837	20,10,742
1826	23,12,456	1838	20,08,480
1827	23,03,096	1839	19,79,928
1828	22,76,129	1840	20,28,629
1829	22,56,841	1841	21,18,769
1830	22,46,761	1842	21,52,753
1831	21,36,592	1843	21,85,672

	Co.'s Rupees.		*Co.'s Rupees.*
† 1820	29,22,193	1832	37,21,950
1821	30,26,436	1833	36,43,032
1822	33,09,593	1834	34,39,633
1823	38,80,406	1835	32,54,176
1824	49,27,489	1836	33,81,321
1825	33,67,668	1837	35,10,303
1826	27,64,922	1838	35,88,768
1827	23,48,588	1839	35,66,447
1828	33,42,204	1840	33,74,098
1829	32,15,294	1841	28,94,782
1830	32,40,773	1842	35,36,942
1831	31,97,958	1843	34,94,934

Appendix, No. 7. land assessment is extremely low, the district has many valuable productions, as pepper, betel, cardamoms, and teak wood, and I believe the real cause of its success is the revision of the survey, which takes place every 10 or 12 years, in direct opposition to Sir T. Munro's principle of declaring the survey assessment permanent. But even in Travancore, it did not afford that protection to the ryot which is stated to be one of its chief advantages."

On which your petitioners beg to remark that Travancore is not a collectorate under the Company, but a tributary state, having a Maharajah, and its own government, to which an English resident is attached.

Zamindary

29. That having thus explained the operations of the ryotwar, your petitioners proceed to the zamindary system, which still obtains to a great extent in the three districts of Ganjam, Vizagapatam, and Masulipatam, and in some few parts of the 17 ryotwar collectorates; where it places the cultivators in a condition not materially better than the ryotwar. A few of these zamindaries existed prior to the occupation of the districts by the British; but the larger part are of more recent creation, in which their possessors occupy the position of farmers of the revenue; of which they are to pay a sum nominally estimated at 35 per cent. to the Government, take 15 per cent. as their own share, and leave the remaining 50 per cent. to the cultivator; the estimated 35 per cent. is, however, fixed at a certain permanent sum, the amount of which can never be varied by either the Government or the zamindar; it must be paid in money, without remission of any kind, to the zamindar for bad seasons, and without any demand upon him for an increase in the cultivation; the cultivators, on the other hand, are to pay the zamindar in kind, and he is to grant them the same remissions which are granted to the ryots of the Government.

30. That the half share of the produce due to the zamindar is subject to no charges for cultivation, the whole of which fall upon the cultivator; who has likewise to pay durbary and other expenses, best explained by the following statement, adapted to the collectorate of Masulipatam, and extracted from a Report by Mr. Russell, the collector of the district, dated the 20th March 1819, and to be found in the Appendix to the Report from the Select Committee, in the year 1832:—

"A ryot who has two ploughs will cultivate one cutty of mettah or dry land; and that extent of ordinary soil, in a favourable year, will produce 4 p. 10 t. of jonnaloo, and other grains and pulse.

				M. Rs.	*a.*	*p.*
"Value of 4 p. 10 t., at 22 Madras rupees per pootty, which is a high computation, since it is reckoning the whole produce at the same rate as jonnaloo* - - -				99	0	0
Deduct Circar share - - -				49	8	0
Deduct durbary charges on 4 pootties 10 tooms, at 2 Madras rupees per pooty - - -	9	0	0			
Ditto Nuzzer cuttoy, &c., at 3 Madras rupees per cent. -	1	8	0			
Batta to Mahasooldars, Anchanadars, &c., at 16 per cent. -	8	0	0			
				18	8	0
Remains to the Ryot - - -				31	0	0
Deduct charges of cultivation:—						
Value of 2½ tooms of seed grain - - -	3	0	0			
Subsistence to two slaves for six months, at 1 seer of jonnaloo per diem - - -	10	12	0			
Two Cumbalies - - -	1	0	0			
Charges incidental to the replacing of cattle, one year with another - - -	6	0	0			
Wear and tear of ploughs, &c. - - -	0	8	0			
				21	4	0
Balance in favour of the Ryot - - -				9	12	0

"In paddy lands two ploughs are not equal to the culture of more than 10½ veesums, and eight pootties are a good crop for that extent of land, in a favourable season.

"Crop

* This is the average price of jonnaloo.

				M. Rs.	a.	p.
"Crop eight pootties, value, at 20 Madras rupees per pootty - -				160	0	0
Deduct Circar portion - -				80	0	0
Ryot's share - - - -				80	0	0
Deduct durbary charges, at 1½ rupees per pootty -	12	0	0			
Nuzzar cuttoy, &c., at 3 per cent. - - - - -	2	6	6			
Mahasooloars, &c., charges, at 16 per cent. - - -	12	12	6			
Total deductions - - -				27	3	0
Remains to the Ryot - - -				52	12	0
Deduct charges of cultivation:—						
Four tooms of seed grain, at 20 Madras rupees per pootty	4	0	0			
Subsistence of two slaves for six months, at two Seers of paddy each per diem, 18 ts. value thereof, at 20 Madras rupees per pootty - - - - - -	18	0	0			
Two Cambalies - - - - - - - - - -	1	0	0			
127 planters, at the average rate of 30 men for every toom sown - - - - - - - - -	10	8	0			
Charges incidental to the replacing of buffaloes,* one year with another - - - - - -	8	0	0			
Wear and tear of ploughs, &c. - - - -	1	0	0			
				42	8	0
Remains to the Ryot - - -				10	5	0

"34. As the fees which the ryot receives at the threshing-floor are given to his slaves, and constitute their means of support during a part of the year, I have calculated their subsistence for six months only, and for the same reason I have omitted to include these items among the receipts of the ryot.

"35. The principles by which I have been guided in estimating the charges incidental to cultivation, were not dictated by any speculative opinions of my own, but were deduced from a careful examination of original accounts, obtained from various sources, where I have no reason to suspect deceit, because there could be no motive for deceiving me. It may, however, be satisfactory to inquire how far the results regarding the charges for bullocks, &c., may tally with others prepared according to the plan observed in Mr. Colebrook's Husbandry of Bengal. That gentleman calculates interest at two per cent. per mensem on the money laid out in the purchase of cattle and ploughs, and considers that allowance to cover the expense of replacing casualties.

"36. In the foregoing accounts I have reckoned the ryot to have two ploughs and four oxen in a dry-grain village, or four buffaloes in one where paddy is cultivated."

"Mettah Land.

"The price of a bullock, at a low computation, must be taken at 12 Madras rupees, and of a plough and other implements of husbandry at 1 Madras rupee 1 anna.

	M. Rs.	a.	p.
"Four bullocks, therefore, must be considered to cost the ryot	48	0	0
"And two ploughs, &c. - - - - - - - -	2	2	0
"The value of his stock then is - - -	50	2	0

"And the interest on the sum for 12 months, at the rate of two per cent. per mensem, Madras rupees 12, or nearly double any former calculation.

"Low Land.

"Eight Madras rupees is the usual price for a ploughing buffalo.

	M. Rs.	a.	p.
"Four, therefore, must be reckoned to cost - - - - -	32	0	0
"And two ploughs, &c. - - - - - - - -	2	0	0
Total amount of stock - - -	34	0	0

"Interest on 34 Madras rupees, at two per cent. per month, 8*r*. 3*a*., or 13 annas less than my estimate.

"If

* Buffaloes are much shorter-lived animals than bullocks, and in the end more expensive; but they do their work better in this sort of cultivation.

Appendix, No. 7.

"If it be admitted that those statements are correct, it follows that the mere profits of husbandry must, under this system, be inadequate to the maintenance of the ryot's family.

"37. We will suppose, for example, that the family consists of five persons, which I take it is the usual average, and that it is composed of the ryot, his wife, two children, and a female relation.

"The daily consumption of grain cannot be estimated at less than four seers. One pootty and a half, therefore, must be allowed for the expenditure of the year; and, as that quantity of jonnaloo even will cost 33 Madras rupees, it is obvious that the mere article of grain alone will amount to more than the surplus which now remains to the ryot. Such is, in fact, the real result of the system. The plough itself affords little towards his support, and were it not that it gives him the valuable right of pasture for his cattle and ground for his pumpkins, he could not subsist. A single she buffalo will yield him eight rupees per annum in ghee alone, and the profit he derives from this source, added to the labours of his women, enable him to procure the necessaries of life; but even these aids will not always afford him the means of subsistence, and for two or three months of the year the fruit from his pumpkin garden, mixed up with buttermilk, or a very small proportion of meat, is the daily diet of his family.

"38. Under these circumstances, the indigence we find so prevalent among the agricultural classes, and the distrust which exists between them and the zamindars, cannot be a matter of surprise. Deprived as they are of the fair return of their industry, it cannot be expected that they will omit to avail themselves of any opportunity that may offer to pilfer the grain while it remains on the ground, and hence arises the necessity for the precautions which the landlord is obliged to resort to.

"39. It may, perhaps, be said that the introduction of village rents would improve the condition of the peasantry by relieving them from the ruinous expenses attending the present system of espionage, and so in fact it would, if the zamindars would found their assessments on a moderate scale, and the distrust which has for ages existed between them and the ryots could be converted into mutual confidence: but as long as the demand of the Circar shall remain at its present standard; as long as the 'durbary kurchooloo' shall be considered to be a lawful branch of revenue; as long as the collections actually realised under the several heads, which have heretofore been customary, shall be looked upon as the proper basis for future assessment; as long, in fact, as the demand of the landlord shall absorb the just profits of the cultivator, so long will it be in vain to expect any confidence between them; so long will the demand of the year depend on the actual harvest, and all engagements continue nominal; and so long will there be a positive necessity for the zamindar to guard against the clandestine removal of his crops.

"40. At present all engagements are nugatory. The rents are so high that it is impossible to realise them, unless the crops prove more than usually favourable. The annual demand of the zamindar, therefore, still fluctuates with the seasons; and as he knows the ryots will do all in their power to deceive him, he is obliged to ascertain their actual resources by means of appraisers, and the settlement is in effect concluded in the same way as if no agreement existed."

31. That without dilating upon the vexations innumerable occurring under the zamindary system, complaints of which are referable to the collector, your petitioners will merely point out that by it the ryot's nominal share of one-half the produce is actually reduced to one-fifth of the half on dry lands, and to one-eighth on wet or paddy lands, yielding as the annual return for his agricultural labour 20 rupees and 1 anna, an amount quite insufficient to procure grain for himself and family; putting aside clothing, salt, and vegetables, and the expenses of religious ceremonies at births, marriages, and deaths, all which he has to procure as best he may, from the milk of his herd cows or buffaloes, and the labours of the female members of his family.

32. That although the Minute of the Board of Revenue, to which your petitioners have referred, states that "the situation of a zemindary ryot is considered by many as superior to most of those placed immediately under collectors and their native officers," it is still more miserable at this time than it was at the date of Mr. Russell's Report; and, as the zamindarships are hereditary, and cannot lapse to Government except for failure in the payment of the Peishcash, or permanent rent; your petitioners represent the imperative necessity for definite and effective regulations to retain the zamindar from the continual practice of oppressive extortions, in taking away the best lands from their original holders, for the purpose of bestowing them on his own relations and favourites; compelling the ryots to cultivate such lands without payment; and obliging the ryots to buy the zamindar's grain at prices far above the market value; as likewise for granting greater facilities to the ryots for preferring their grievances, and for the due and early inquiry into and settlement of them by the collectors, instead of their being, as they are now, obliged to enter into an expensive litigation in the civil courts of the Government, notwithstanding the existing regulations that summary justice shall be afforded them by the collector.

Village system.

33. That, as the ryotwar system prevailing in 17-20ths of the whole presidency is always the substitution for the zamindary when lapses occur by the failure of Peishcash, your petitioners earnestly pray that, as there can be no obstacle either of hereditary right,

right, vested interests, or any other, to prevent its summary and total abolition, the ancient system which obtained in the country, prior to its subjugation by the Mahomedans, may be again reverted to; viz., the village system, or the collection of the revenue from the land by means of villages instead of individuals, without the interference of zamindars or middlemen on one hand, and free from the harassing oppressions of Government servants on the other. This system your petitioners beg to state has been tried by the Madras government, in what was called the Triennial and Decennial Settlements, alluded to in the former part of this petition, regarding which the Minute of the Board of Revenue before mentioned states:—

* * * * * * * *

"280. It differed from the ryotwar chiefly in the assessment being fixed on the entire aggregate lands of the village, not on each distinct and separate field; in its being concluded with all the ryots collectively, not with each individually: and in its giving up to the ryots not only the revenue to be derived from the arable lands, but that also to be obtained by after-exertions from the waste also. In fact, in leaving, in consideration of a contract to pay a given sum as public revenue, the entire internal administration of the affairs to the village community.

"281. The object in view was to adapt the revenue administration to the ancient institutions and ancient usages of the country, to which the Hindoos are proverbially attached; to suit the system to the people, and not to attempt to bend the people to the system. Mr. Place quoted, by some mistake in England, as an advocate for ryotwar, has well described the village settlement, and it is curious to observe the accuracy with which he predicted the consequences resulting from an attempt at the introduction of ryotwar in the Tamil country.

"It would," says he, "be superfluous, impracticable, and impolitic to ascertain with greater precision than has already been done, the measured extent of each share, or of each man's proportion of meerassay; because, in the first place, it would strengthen those suspicions which have arisen; and in the next, it could only be done by personal survey and the most unremitting attention, which, I think, hardly any one man can give to the completion of such a work, independent of innumerable variations that would take place while it was in hand; and it would be unwise, because not only it will be ever the most beneficial mode to let the lands of every village jointly to the inhabitants at large, both with a view to security and to good cultivation; but to let them separately, would tend to create divisions and dissensions, to the undoubted embarrassment of themselves, as well as of the public. No difficulty occurs in fixing the value of all the lands together of one village, but it would be nearly impossible to assign to every small allotment its proportion so exactly, and with such due regard to fertility of soil and other circumstances, that some should not benefit and others suffer; yet the latter would not receive the assistance of the former, in case of failure in their engagements.

"At present every village considers itself a distinct society, and its general concerns the sole object of the inhabitants at large; a practice, surely, which redounds as much to the public good as to theirs, each having, in some way or other, the assistance of the rest. The labours of all yield the rent; they enjoy the profit proportionate to the original interest, and the loss falls light. It consists exactly with the principles upon which the advantages are derived by a division of labour: one man goes to market, whilst the rest attend to the cultivation and harvest: each has his particular occupation assigned to him, and insensibly labours for all; but if each had these several duties to attend to, it is obvious that all the inhabitants must be absent together at those times that are most critical, both to them and to the state, and that many must want those abilities necessary to the performance of the various employments that would arise.

* * * * * * *

"On the whole, I cannot but consider that any reform tending to do away the union, or, if I may be allowed the expression, the unity of the inhabitants, and to fix each exclusively to his property, will be attended with danger."

"285. It was apprehended by some, that where the collective body of the ryots would not consent to assessment fixed by the collector on the village, and it became, consequently, requisite to enter into a settlement with the head only of the village, he would exercise over the inferior ryots all sorts of oppression; but it was conceived that his petty tyrannies could never equal those to which the ryot was liable from the more powerful Tehsildar. On the contrary, it was thought that his more intimate acquaintance with the affairs of the village, his superior knowledge of all its localities, his fellow-feeling for his unfortunate brethren, the assistance and forbearance which he knew when and how to afford to each ryot much better than the Tehsildar, the interest he possessed in supporting his popularity among the village community by a system of conciliation, and, above all, his entire dependence on the ryots themselves to enable him to fulfil his engagements, would render him a much more acceptable superior to them than the collector's severe and authoritative deputy, connected with the ryot by no ties of dependence, friendship, or fellow-feeling, and dependent for all his prospects in life chiefly on the state of his treasury and the precision of his collection."

34. That

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34. That the objection referred to in the above quotation from the Board of Revenue's Minute is, as far as your petitioners are acquainted, the principal, if not the only one, that has been urged against the village system; and the Court of Directors have adopted it in their Revenue Letter to the Government of this Presidency, dated the 12th December 1821; when alluding to the propriety of assessing the lands of a village in common, they observe, it "appears, according to all the information before us, liable to this conclusive objection, that the principal ryots are enabled in villages of this description to relieve themselves at the expense of the inferior;" but your petitioners submit that with only common and proper regulations for the guidance of the managing Ryots, equal justice could be easily distributed: there is no record that the contrary has, at any time, been the case under the short operation of the decennial settlement; while there is abundant testimony to the beneficial effects it is capable of producing towards the entire village community: as, for instance, the Honorable Mounstuart Elphinstone, when Governor of Bombay, recorded his opinion that the system was less objectionable, "because there are many ties on the potail (or head ryot of the village), to prevent his oppressing the people with whom he has been brought up, and among whom he is to pass the remainder of his days. It is not by any means so unpopular among the people. It gives to the person whose business it is to direct and encourage the labours of the ryots, an interest in their success; it strengthens the influence of the potail, so much required in revenue, police, and in settling disputes, and so likely to be undetermined by the introduction of an officer of government." Mr. Martin, Resident and Chief Commissioner at Delhi, speaking of the same class of persons in the Upper Provinces of Bengal (Letter to Government, 31st May 1831) observes, "Independently of the numerous ties by which they are connected with several subdivisions of the village, and which constrain them to the observance of an equitable regard to the rights and interests of all, the process of internal distribution among themselves of the share which each of the subordinate proprietors shall contribute to the payment of the Government demand, regulated as that process is by principles and usages which are familiar to all, constitutes, in my opinion, a sufficient safeguard against the undue preponderance of sinister interest in the engaging partner, and produces that harmonious regulation of the village economy, which results from the free co-operation of its members in the settlement of their affairs, and which appears to be no less conservative of the moral interests of the community, than conducive to an equitable assessment upon each proprietor, according to the extent and value of his share in the aggregate demand of Government.

35. That your petitioners will adduce further testimonies to the excellence of the village system, when preserved in its integrity. The first being that of the influential personage who has been the main introducer of the ryotwar system, Sir Thomas Munro, in his report of the 15th May 1806, states, "Every village is a little republic with the potail at the head of it, and India a mass of such republics. The inhabitants during war look chiefly to their own potail. They give themselves no trouble about the breaking up and division of kingdoms; while the village remains entire, they care not to what power it is transferred. Wherever it goes the internal management remains unaltered. The potail is still the collector, magistrate, and head farmer." And the second is derived from the authority of the late Lord Metcalf, "The village communities are little republics, having everything they want within themselves, and almost independent of any foreign relations. They seem to last where nothing else lasts. Dynasty after dynasty tumbles down, revolution succeeds revolution, Hindu, Pattan, Mogul, Mahratta, Sikh, English, all are masters in turn; but the village communities remain the same. This union of village communities, each one forming a separate state in itself, has, I conceive, contributed more than any other to the preservation of the people of India throughout all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness and to the enjoyment of a great portion of freedom and independence."

36. That both the Madras Government and the Board of Revenue, who witnessed the effects of the decennial assessment, were highly satisfied with the result, and recommended its general adoption; combating the objections against its introduction in the following language, copied from the minute on which your petitioners have already drawn so largely:—

"287. The judgment which has been pronounced in England against the village system, of which the outline is given above, is founded on a very partial and unfavourable view of its results; for it does not appear that the authorities at home had, at the time when that judgment was passed, any information before them respecting any other portion of it than its commencement, the triennial settlement. It is hoped that the reports which have since been forwarded, in elucidation of the effects of the decennial settlement, will enable them to form a more correct opinion of the tendency of the village system.

"288. Nothing, however, that has been urged at home, appears to contravene any of the fundamental principles of the village system. The whole of the evils arising from the triennial settlement, or which have been attributed to it, may distinctly be traced, not to its intrinsic principles, but to its over assessment, which it must be allowed has been justly condemned; for it was nearly everywhere a mere rack-rent. Under the pressing orders received from England, about that period, requiring from this country a surplus revenue of a million sterling, accompanied by a threat from the honourable Court of Directors to take the revision of the establishments into their own hands, not only was the most rigid economy enforced in all departments of the state, but the triennial settlement of each village

village where the ryotwar system had existed was too generally determined with reference to the payments under the survey rent; in other words, with reference to the collections under the ryotwar system, when all was taken from the people that they were able to pay.* The over assessment during this period, therefore, arose from the triennial settlement having in a great degree been founded upon the fallacious data of the ryotwar collections; and if any inference is to be drawn from this circumstance, it is one against the ryotwar, not against the village settlement.

289. "The practical error, with some others of a similar nature, which had inadvertently crept into the triennial settlement, and are attributable entirely to a deviation from its principles, was in general avoided in the decennial settlement, which, as embracing a longer period and a greater vicissitude of seasons, is the standard by which a fair judgment may be formed of the result of the village system.

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"290. That although this system has not been equally successful in every district, yet even where, as in Bellary, it has been the least so, the collectors are unanimous in opinion that it has most materially improved the condition of the great agricultural population of the country, and that it is the great body of the ryots, and not the mere parties with whom the settlement was concluded, who have chiefly benefited by the village settlement. The ryotwar teerwas have nearly everywhere been greatly reduced; and instead of the head ryots oppressing their inferiors, most of the collectors have been obliged to prop their weakened authority by that of their tehsildars. This, without any material exception, is the universal language of all their reports, and it is a result which may be confidently offered as conclusive evidence that the system has generally answered the expectations of those by whom it was introduced; but where the settlement has been best conducted, as in Cuddapah and the northern division of Arcot, a picture of prosperity is drawn, of which the parallel may in vain be sought for throughout the revenue records of this presidency."

37. That, notwithstanding this decided testimony to the superiority of the village system, as regards the prosperity both of the revenue and the cultivator, the Court of Directors ordered the village system to be superseded by the ryotwar, as before stated by your petitioners; and, with a professed view to remedy the evils attending it, issued orders which declared that the labour of the ryot should be henceforward free from compulsion; that private property in lands on this side of the Peninsula should be acknowledged, and that the over-assessment should be reduced; but, however well-intentioned those orders may have been, ryotwar is still the curse of the country, the over-assessment continues unaltered, the ryots are compelled to cultivate at the pleasure of the tehsildar, and the acknowledged right of private property in no way prevents the oppression of the owner, nor his gradual and sure depauperation. That while your petitioners apply to your honourable House for a return to their old revenue system on the broad ground of justice to the cultivators, they beg to point out a few particulars in which the change will be advantageous to the Government:—1. It will be relieved from the loss and corruption entailed by the ryotwar system; 2. It is secured from all loss arising from unequal land tax; 3. The rent will not depend upon the correct assessment of the cultivation; and, 4. The charge of collection will be considerably decreased; yet even were there no immediate advantage likely to accrue to the Government, your petitioners would represent that a lighter and more reasonable assessment, coupled with the removal of the vexations and oppressions accompanying the present mode of collection, would ensure a much larger cultivation, and thereby the revenues of the state would be improved; and that the people of India are therefore entitled to seek and to obtain from the paramount authority of the Imperial Parliament, the necessary and equitable redress of the weighty and multiform grievances brought upon them by the introduction of the system under which they groan; and their claims to the mode of redress they have pointed out are rendered still stronger by the fact, that a settlement by villages nearly resembling that which your petitioners seek for themselves, is actually now in full operation in the north-western provinces under the Bengal Presidency, where the leases are held on a term of 30 years' duration.

38. That the next grievance regarding which your petitioners appeal to your Honourable House, is the moturpha, or tax upon trades and occupations, embracing weavers, carpenters, all workers in metals, all salesmen, whether possessing shops which are also taxed separately, or vending by the road side, &c. &c., some paying impost on their tools, others for permission to sell, extending to the most trifling articles of trade and the cheapest tools the mechanic can employ, the cost of which is frequently exceeded six times over by the moturpha, under which the use of them is permitted. Moturpha.

39. That this tax, although of Mahomedan origin, as might well be supposed only from its oppressiveness, without the proof that it was so, contained in the Arabic word "moturpha," was never universal at this presidency, and was declared to be general only 20 years ago by Reg. V. of 1832, whereby it was enacted, that "the not having been actually charged with the said tax for any length of time, or residing at a place where it has not been actually

* *See* Report of the Board of Revenue to Government, dated 25 April 1808.

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actually levied, shall not entitle any person to exemption from it;" while such is the extreme irregularity of its collection, that whereas in the district of Tanjore it does not exceed the average of a farthing per head, in Kurnool, where the land assessment is much greater than in Tanjore, it amounts to no less than 9 *s.* 4 *d.* per head; while in the district of Canara it has been remitted since the year 1842, and in that of Madura it remains unenforced to this day.

40. That the last place to which it has been extended is a part of the district of Chingleput, and its introduction there in 1843 was attended with a serious disturbance; so great is the aversion of the people to this obnoxious impost, which compels them to go to the collector for their pullats, and often to be away from their occupation three or four days at a time, costing them as much for their own expenses, and frequently more than the amount of the tax they have to pay; in many parts the poor are taxed while the more affluent are exempted; and in all instances it falls more heavily upon the indigent than upon the wealthy, while the discretionary power under which it is collected affords a wide field for the perpetual practice of inquisitorial visits, extortion, and oppression, as suits the pleasure or the cupidity of the irresponsible collectors, with whom it is no unusual thing to resort to imprisonment and fetters in order to compel their exactions. That the whole sum raised by this impost is but little above 100,000 *l.* sterling; and, as it has already been entirely abolished at Bengal and Bombay, your petitioners request that the same advantages may be extended to Madras.

Small farms and licenses.

41. That closely allied to the moturpha impost is the grievance of small farms and licenses, intended for raising what is called extra revenue, and which consists in the annual leasing out to individuals of certain privileges, such as the right of measuring grain and other articles; the right to the sweepings of the goldsmiths' workshops; the right of dyeing betel nut; of cutting jungle wood; of grazing cattle; of gathering wild fruit and wild honey; of catching wild fowl; of cutting grasses used in thatching; basket rushes and cow dung; and innumerable other such rights of levying taxes from the poorest of the poor, who feel them to be a most intolerable burthen, not only in the amount but in the vexations attendant on the collection of the money. Your petitioners therefore pray that these grinding imposts, the moturpha and the small farms and the licenses, may no longer be permitted to oppress the suffering people of this presidency.

Salt monopoly.

42. That the next grievance to which your petitioners would draw the attention of your Honourable House is the salt monopoly, a source of revenue introduced into this presidency by the East India Company; the manufacture of this article under the former governments having been subjected to no other restriction than that of a trifling duty; but under the British Government the right of manufacture began to be farmed or rented by individuals upon such terms as enabled the manufacturers to sell it on the coast at the price of 10 pagodas or 35 rupees per garce of 3,200 measures; and up to the year 1805, the revenue derived from that source did not exceed 80,000 pagodas or 280,000 rupees per annum.

43. That in the year 1806, the Government established an agency for the control and management of the salt department, the first consequence of which was the doubling of the price of the article, which was then fixed at 70 rupees the garce, when the annual average consumption for the space of three years amounted to 31,685 garces, at the end of which time, in the year 1809, the price was again raised from 70 to 105 rupees the garce, being three times as much as it had been prior to the Government monopoly; but, as the enhanced price naturally decreased the consumption, the price in 1820 was again fixed at 70 rupees; but after a course of eight years, the price was again fixed at 105 rupees, which was still further raised to 180 in the year 1844; but in the same year it was reduced to rupees 120, at which price it has ever since continued: that this being the wholesale price, it is of course sold to the retail dealer at an advance, who, as necessarily, adds his profit, to be paid by the consumer; and while the poorer classes are able to purchase a much smaller quantity than they could consume when living nearest to the salt pans, those who reside at a distance have to pay the expenses of the carriage, at the average rate of a rupee on each garce for every mile; so that it comes to them, according to the distance, 50, 100, and 200 per cent. dearer than at the coast: and the consequence is, that either the people go without salt altogether, or substitute an unwholesome article obtained from common earth impregnated with saline particles, which they manufacture at the risk of punishment, the procurement of salt other than that of the monopoly being prohibited under penalty of fine and corporal punishment, inflicted at the discretion of the collector or his tehsildar.

44. That your petitioners submit the great probability, amounting almost to a certainty, that the revenue derivable from this article might be obtained, if not even exceeded, were the monopoly reduced to the original price of 70 rupees the garce, as may be intelligible from the calculations following. By the revenue accounts for this presidency, during the four years commencing with 1846-47, and ending 1849-50, printed by order of your Honourable House in May 1851, and which are the latest accessible to your petitioners, it appears that the annual average gross revenue is 46,41,868 rupees, the actual amount for the last year, 1849-50, being 46,15,946 rupees: and the sale price being 120 rupees per garce, the quantity consumed will amount to not more than 38,716 garces, or enough to supply the wants of 6,882,844 individuals, 18 measures per annum being the average quantity consumed by each individual who can afford to purchase: but the population of the 20 collectorates,

lectorates, including that of the city of Madras, amounted in 1850–51, as per return of census, published by the Board of Revenue of Fort St. George, to 22,301,697; to which, if there be added the population of Mysore, Travancore, and the recently-acquired province of Coorg, which in the year 1839 was estimated at 3,419,754, there will be found a total of 25,721,451, out of which there may be calculated that 20,000,000 are, or would be if they could procure it, consumers of salt, allowing 5,721,451 for infants under five years of age who do not use the article; and these 20,000,000 consuming as they would do, on an average, 18 Madras measures per annum each, would require a supply of 112,500 garces, or nearly thrice the quantity of the present actual consumption, without including the salt required for the cattle, which is a large quantity, and would be increased materially by the diminution of the price. Appendix, No. 7.

45. That according to the published accounts above quoted, it will be found that the cost and charges of the manufacture is something under 21 rupees the garce; and, consequently, if from these 38,716 garces, sold for 4,645,926 rupees, there be deducted the actual cost and charges of 8,12,614 rupees, the net profit to the Government will be 33,33,312 rupees; but the sale price of 112,500 garces, at 70 rupees per garce, is 78,75,000 rupees; and deducting for cost and charges the sum of 25 rupees the garce, amounting to 2,812,500, the net profit to Government will be 50,62,500 rupees, or 16,29,188 rupees in excess of the revenue now obtained at the sale price of 120 rupees per garce: that the excess of revenue just quoted is equal to 23,274 garces, sufficient for 4,137,600 people; so that should the consumers be no more than 16,000,000, instead of 20,000,000, the present net revenue will suffer no deterioration, and the Government will still have a gain upon the article of more than 180 per cent.: your petitioners, therefore, pray your Honourable House that, as the lowering of the price will do no harm to the Government, while it will relieve so large a portion of the people from a most oppressive and injurious tax, affecting not only their comfort but their health likewise, that the Government charge for the article may return to the rate first introduced by the monopoly.

46. That another serious evil of which your petitioners have to complain is the increased and increasing consumption of spirituous liquors at this presidency, owing, as your petitioners are compelled to state, to the encouragement given to their use by the local government, and from which, in the capital alone, it now derives a gross revenue of 60,000 *l.* per annum. The liquor generally known by the name of arrack is made at the Government distilleries, and thence supplied to licensed venders to the number of 150, by whom it is sold in small quantities in every direction. In the interior, the manufacture and sale of the article is committed to contractors or farmers, who compete for the privilege annually at public auction, the sales realizing, on the average, 250,000 *l.* a year; and as the sale price is extremely low, the quantity consumed and the number of consumers is immense. Drunkenness, with all miseries, is consequently common throughout the land, and its baneful effects are a full counterpoise for whatever real or imaginary benefits have been derived by the lower orders of India from her connexion with Great Britain. Your petitioners have not memorialized Government in order to obtain the repression of this evil, not only because memorials to the Bombay authorities have totally failed, but because the amount of revenue thus derived from native demoralization is too great for your petitioners to indulge the slightest hope of procuring even a diminution of so profitable a vice, forbidden by Hindoo and Mahomedan law, and comparatively unknown before the ascendancy of European dominion. But your petitioners venture to indulge an expectation that your Honourable House will view the pestilence in its true light, and provide the remedy which so wide-spread and ruinous a calamity imperatively demands. Abkary.

47. That your petitioners will now advert to some other subjects requiring redress, such as the Post-office, which, besides being very tardily and slovenly conducted, acts, by the exorbitance of its charges, like a dead weight upon commercial correspondence and the circulation of knowledge; and which weight would be considerably lightened were the conveyance of official papers, which form three-fourths of the mail conveyed by tappal, placed to the expense of the Government: this would make the Post-office revenue four times the amount now credited, and of course would permit of a corresponding reduction in the cost for carriage: a letter or package which now is taxed at 1 *s.* might then reach its destination for the cost of 3 *d.*, and still the returns of the department would more than cover the expenditure, even without an increase of correspondence, which, however, would certainly take place to a considerable extent, as a consequence of a diminution in the rates of postage. Post-office.

48. That a necessary auxiliary to the increase of correspondence is a thorough reform in the management of the Post-office departments, beginning at the capital, and extending to the remotest boundaries of the presidency, which, although containing an area of upwards of 140,000 square miles, has no more than 130 post-offices, controlled by 30 post masters, a number totally inadequate to the wants of the public, to meet which efficiently your petitioners suggest that there should be at least one or more officers in every talook, according to its size, so that no inhabited part of the country should be more than 10 miles from a post-office. At present, the arrangements for distributing the letters among the native population, even at the stations where the offices are situated, are most defective and imperfect; the agents employed are of an inferior description, who frequently retain the delivery for days, till the parties to whom the letters are addressed submit to some unauthorized demand; while as regards places at a distance from the post stations, the evil is much greater;

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greater; enormous delay, extending not unfrequently to weeks, is incurred, and a heavy charge besides; while, after all, the delivery of letters is uncertain, and wrong parties are sometimes permitted to obtain their possession.

49. That these combined circumstances, the paucity of offices and their inefficient supervision, the delays, exactions, and uncertainties, cause the Post-office to be greatly less trusted than it would otherwise be by the native public, who, in very many instances, have established dawk transit at their own expense, thereby depriving the State of a part of its income, to an extent necessarily unknown, but as necessarily of no trivial importance; and your petitioners therefore request that there may be a thorough reform in this department, reaching to the whole of its branches: and that every paper or package passing through it shall be made subject to the same uniform rate of charge.

Mahratta Dufter.

50. That another office, constituting useless expense to the Government, is that of the Maharatta Dufter, or native revenue establishment, by which all revenue accounts have to be translated from the Telugu, Canarese, Malayalum, and Tamil languages, in which they are originally kept and furnished, into the Maharatta; from which they are again rendered into English; this plan has been pursued at this presidency since the year 1824, and up to the present year has cost little short of 90,000 *l.*; the money being absolutely thrown away, besides increasing the amount of public business, together with a proportionate amount of official perplexity and confusion.

Irrigation.

51. That your petitioners now proceed to direct the attention of your Honourable House to the Maramut department, by which is intended the construction and preservation of reservoirs and channels for the purposes of irrigation, upon which not merely the fertility of the soil, but the practicability of its cultivation, is mainly dependent on the eastern side of India. Both the reservoirs and the channels are of the remotest antiquity, and were in former times extremely numerous, but at the present period not more than four-fifths of those still existing are kept in repair, while others have altogether disappeared, causing a decline in the agriculture of the presidency, equally hurtful to the ryot and the revenue, and this evil is occasioned partly from the unwillingness of the Government to disburse a sufficiency of funds, partly from what it does disburse being unsystematically applied, and partly because the execution of the works is entrusted chiefly to the tehsildar, to whom are committed the purchase of materials, the engagement of the labourers, and the payments due for each, he being held responsible both for the manner and time in which the work is completed; and the powers of this officer being almost unlimited, as he possesses, with very little abatement, the authority of the collector, he is able to compel the supply of materials and labour below the market price, to diminish the quantity of that actually furnished by short measurement of the work performed, and to delay the settlement of accounts almost indefinitely at his pleasure.

52. That although an impost is annually levied upon the ryots for the repair of the reservoirs and channels, there being a distinct charge consolidated in the land assessment for the use of the water, and although the construction of new reservoirs, where they are needed for an increased cultivation, will always give a return from 50 to 70 per cent. on the capital laid out; yet, in the province of Tanjore, whose general fertility entitles it to be called the granary of the Madras Presidency, it appears by the latest published Report of Captain A. Cotton on that district, the annual expenditure for repairs and other purposes connected with irrigation amounts to no more than about two per cent. upon the gross produce, and he remarks, "There are at this moment passing to the sea by the Colleroon at least 100,000,000 of cubic yards of water per day, sufficient for a crop of paddy in 8,000 cawnies; in a good fresh, sufficient water for a crop on 30,000 cawnies runs to waste daily. In a moderate season enough is lost to water certainly at least a million cawnies, or a tract double the extent of Tanjore, which would provide grain for about 2½ millions of people." And if such is the slender disbursement upon irrigation in the best watered province of the presidency, it must be trifling indeed in those districts which are more neglected, and as a natural consequence contribute to the revenue in a far smaller proportion; the results of this negligence being, that immense tracts of land lie everywhere uncultivated, simply for want of requisite irrigation, while numerous large rivers are hourly rolling their surplus waters into the ocean, along a coast extending from 800 to 1,000 miles along the eastern side of the peninsula, dooming reclaimable and virgin lands to sterility, and causing in great part the periodical famines, which with their concomitant, the pestilence, sweep away the wretched inhabitants by myriads at each time of their dreadful visitation. "Had a hundredth part," observes Captain Cotton, "of the time, labour, and money that has been lost by droughts or expended in trying to obviate the effects of scarcities been expended in providing against them, very much might have been effected; it is undoubted that in the worst year that ever occurred, enough water has been allowed to flow into the sea to have irrigated ten times as much grain as would have supplied the whole population." And the indifference of the Government on this head is the more remarkable, from its being a known fact, that proper irrigation is computed to increase fivefold the produce and the value of the land watered.

Roads.

53. That, closely connected with the irrigation of the country, is the construction of roads, to enable the cultivator and the manufacturer to contribute to the wants of each other, and thereby increase the prosperity of the inhabitants in general, and in regard to which your petitioners have the greatest causes for complaint, it being a melancholy fact that

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that the sum expended for this purpose at the Madras Presidency is scarcely above one half per cent. on her revenue; in the North-Western Provinces it is two and a half, and in Bengal more than one and three quarters; while Bombay, with a far smaller revenue, and half the number of inhabitants, has more than 37,000 *l.* expended upon her roads and canals, while Madras has only 30,000 *l.*

54. That the condition of the roads at Madras, however bad, is just what could be expected under such circumstances; but as it is impossible for your petitioners to get at official documents on this head, the Government having declined complying with the request of the association, and all public officers, civil and military, being prohibited to communicate official information, they will draw upon an article contributed to the "Calcutta Review," No. 32, for a few facts by way of elucidation. The number of principal or trunk roads, as set down in the return of public works, printed by order of your Hononrable House in 1851, is only 11, but very few of these are finished, and not one of them is kept in a state of efficient repair; the only road that is always in good order i that leading from Fort St. George to the head quarters of the artillery at St. Thomas's Mount, a distance of about eight miles; the longest road is that from Madras to Calcutta, 900 miles estimated length, but it has never been completed, and, although it is called the Great North Road, and is used by all travellers proceeding to the northern parts of the presidency, yet even a few miles from Madras it is not distinguishable from paddy fields, and piece goods have to be brought on the heads of coolies from Nellore, 110 miles distant, and situated on this very road; 50 miles farther it passes over a wide swamp, causing carts and travellers to skirt its edge in mud and water, as well as they can, during six months of the year; on another part of the same line near Rajamundry, a gentleman was lately four hours in travelling seven miles on horseback; parts of this road have been at various times repaired, but these portions have afterwards been totally neglected and allowed to fall again into ruin; for the most part the line is unbridged, and in the places where bridges have been constructed they have been neglected, till the approaches have been wholly cut away by the rains, leaving the bridges inaccessible, and consequently useless. From this road another branches off towards Hydrabad and Nagpore, but though it is only 22 miles in length, the money expended upon it has been thrown away, and it is never in a fit state for traffic; and such is the general condition of all the rest of the trunk roads, with the exception of that leading to Bangalore, which, and which alone, is practicable, and that only latterly for post carriages and horses, proceeding at the rate of four or five miles per hour.

55. That the country is in an equally desperate condition as regards district roads. The district of Cuddapah, measuring 13,000 square miles, has nothing that deserves the name of road; there are tracks, impassable after a little rain; and everywhere carts, when used, carry half their proper load, and proceed by stages of half the usual length; while the trunk road from this district is so notoriously bad, that the Military Board use it as a trial ground to test the powers of new gun carriages, which are pronounced safe if they pass over this severe ordeal. This district is one of the finest cotton fields in South India, but has its prosperity impeded and kept down by the wretched state of its internal roads, and of its communication with the coast, the natural outlet for its commerce. Other districts might be named only second to this in extent, and hardly inferior in capabilities, in which the internal communications are no better; and there are few districts in which country roads, as distinguished from the chief trunk roads, have received any attention whatever, and to all but these few the description of Cuddapah is applicable; the principal exception being the Collectorate of Salem, which as it is a level country, without any large rivers, has, under Mr. Orr, received considerable improvement at a trifling expense of about 4,000 *l.*, and the forced labour of the district; but it is still without main routes of communication with the surrounding districts.

56. That the entire extent of road practicable for bullock carts, scarcely exceeds 3,000 miles for the entire presidency; mostly without bridges, impracticable in wet weather, tedious and dangerous in the dry season; not an individual talook possesses roads correspondent to the number of its population, and where there is the greatest improvement, as at Salem, it is of no benefit to the other parts of the country, and to them is all the same as if it had no existence.

57. That the unwillingness of the Company and the local Government to expend money on the construction of roads requisite for the interchange of traffic from province to province, and from the interior to the shipping ports along the coast, would be incredible if it were not a notorious and substantial fact; and it is still worse that they should pretend the ryots ought to make them at their own expense, for pressed down, as they are, by a heavy load of taxes, which renders them too poor to purchase Company's salt for their miserable food of boiled rice and vegetables, the latter too frequently wild herbs, the spontaneous produce of the uncultivated earth; unable to supply themselves with clothes, beyond a piece of coarse cotton fabric, worth 2 *s.*, once in a twelvemonth, it is impossible for them to find the means or time for road-making gratis, even if they possessed the skill requisite for the purpose: and your petitioners submit that it is the bounden duty of the State, which reduces them to their miserable condition, and keeps them in it from charter to charter, to spend a far larger portion of the resources upon the improvement of the country whence they are derived than it does at present. It can find money to carry on wars for self-aggrandisement, to allow immoderate salaries to its civil service, to pension off the whole of its members on 500 *l.* a year each, and to pay interest at 10 per cent. to the proprietors of East India Stock, all from

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from the labour of the ryot; and when he requires roads by which he might find the means of bettering his condition, and that of the revenue, he is told that he must make them for himself.

58. That the refusal of the local government to effect the necessary improvements, on the ground of financial incapacity, has indeed much appearance of truth; owing to the circumstance that the Supreme Government of India will not allow any money to be assigned to the purpose of improvements at this presidency, unless she contributes to the general revenue of the Company the quota of 50 lacs of rupees over and above her own expenditure; and as the surplus revenue for the year 1849-50 was only 43,16,761 rupees, and all preceding years very much less, Madras on these terms can hope for but a small allowance; but the fact is that she is dealt by most unjustly, in being compelled to furnish military protection to various districts, the revenues of which are paid into the treasuries of Bengal and Bombay; the cost to her of the troops thus supplied amounts to 79,83,000 rupees, making, with the surplus already quoted, the sum of 1,22,99,761, nearly 73 lacs above her assigned quota, and, were she allowed to spend her own surplus, there would be ample funds both for public works and for relief from injurious and impolitic taxation; while the construction of good roads throughout the presidency would go far to abate the severity of periodical famines, by permitting the easy transport of grain from one province to another, which is absolutely impossible under present circumstances, when a journey of any length would occasion the consumption of the grain for the support of the drivers and their cattle long before they could reach their destination. Your petitioners, therefore, beg for that portion of redress which your Honourable House shall judge to the necessities of the people and the prosperity of the presidency.

Company's Courts of Law.

59. That your petitioners now come to the representation of the grievances under which they labour in connexion with the administration of civil law in the courts of the East India Company; the process of which, besides involving large unnecessary expense, is slow, complicated, and imperfect. These courts comprise those of the moonsiffs, with a jurisdiction in suits under 1,000 rupees; of the sudr ameens, with a jurisdiction below 2,500 rupees; of the principal sudr ameens, or subordinate judges, within 10,000 rupees; and of the zillah, or civil judges, with jurisdiction unlimited; finally, the Court of Sudr Adawlut, the highest court of appeal in the country, having also discretionary power to call up certain suits from the civil courts for original investigation.

60. That from the decisions of the moonsiffs, sudr ameens, principal sudr ameens, or subordinate judges, an appeal lies to the civil courts; decrees of these latter are similarly appealable to the Sudr Adawlut; and in suits involving 10,000 rupees and upwards, a further appeal to the Privy Council is open; also, cases appealed to the civil courts can have a special appeal to the Sudr Court, should there be any inconsistency with some law or usage in respect of which there may exist reasonable doubt. The moonsiffs, sudr ameens, and principal sudr ameens, are either Europeans, East Indians, or natives, but the subordinate, civil, and Sudr Adawlut judges are covenanted civil servants.

61. That in all suits, whether in courts of the first instance, or in appeal, every paper presented to the court, the power of attorney to the vakeel, the pleadings, the exhibits of whatever kind, must be on stamped paper of a certain value, varying, in an ascending scale with the jurisdiction of the courts, and four annas (sixpence) to four rupees (eight shillings) per sheet of 30 lines, independently of an institution fee, payable in every court through which a suit may be carried, according to the following scale:—In suits for sums not exceeding 16 rupees, one rupee; above 16 rupees, and not exceeding 32, two rupees; from 32 to 64, four rupees; from 64 to 150, eight rupees; from 150 to 300, 16; from 300 to 800, 32; from 800 to 1,600, 50; 1,600 to 3,000, 100; 3,000 to 5,000, 150; 5,000 to 10,000, 250; 10,000 to 15,000, 350; 15,000 to 25,000, 500; 25,000 to 50,000, 750; 50,000 to 100,000, 1,000; above 100,000, 2,000; this fee is to be the stamp on the first sheet of the plaint or petition of appeal; and all further sheets to complete the pleading must have each a stamp, varying, according to the court of jurisdiction, from four annas to four rupees. All proceedings in every suit are matter of record to meet the privilege of appeal.

62. That the vexatious delays arising out of the present judicial system, and the injury thereby inflicted on the suitors, attracted the notice of the Court of Directors so long ago as the year 1814, as will be apparent from the following extract from a despatch to the government of this presidency, dated the 29th April in that year, and printed by order of your Honourable House on the 1st July 1819:—

"17. What also occasions the great arrears of suits in all our tribunals, both European and native, is the process and forms by which justice is administered. This process, and these forms, are substantially the same as those of the superior tribunals in England, and even pass under the same names. The pleadings of the court are almost in every case written (as well as the evidence of witnesses), and they proceed by petition or declaration, replication and rejoinder, supplemental answer and reply.

"18. Such a minute and tedious mode of proceeding, in a country where the courts are so few, compared with the vast extent and population of it, must be quite incompatible with promptitude and dispatch. Causes must be long pending, and slowly got over off the file; and the tardiness with which they are brought to a settlement must, in innumerable instances, be a greater evil than the original injury sought to be redressed, to say nothing of

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of the frequent visits which the litigant parties are under the necessity of making, for the purpose of filing their pleadings in the progress of the cause, according to the turn which the proceedings may take. This grievance is one of no ordinary magnitude to the suitors, as well as to those who may be summoned to give evidence. On one description of persons it must, according to the information we have received from Colonel Munro, operate with peculiar severity: we here refer to the heads of villages. 'They are (he observes) subject to great inconvenience and distress, being summoned as witnesses in every trifling litigation that goes before the judge from their respective villages. They are supposed to know the state of the matter better than anybody else, and are therefore always summoned. They are detained weeks and months from the management of their farms, and are frequently no sooner at home than they are called away 50 or 100 miles by a fresh summons about some petty suit which they could have settled much better on the spot: and crowds of them, as well as of the principal riots, are always lying about the courts, and very often without its being known to the judge that they are there.'"

63. That in order to exemplify the tediousness of the protractions to which suits are liable, your petitioners will select a few cases from "Decisions of the Sudr Adawlut,"—published by that court,—embracing the last half year of 1849:—

Date of Proceedings of Sudr Adawlut.	Nature of Decision.	Year of Original Suit.	Time occupied.
2 July 1849 -	Special Appeal Suit decided - -	1840	9 years
" " -	Suit remanded to Civil Court - -	1845	4 "
" " -	Ditto ditto - -	1843	6 "
" " -	Ditto ditto - -	1846	3 "
20 Aug. " -	Suit remanded to Original Court -	1846	3 "
" " -	Suit remanded to Civil Court - -	1847	2 "
23 " " -	Decrees of Lower Courts reversed -	1841	8 "
22 Oct. " -	Suit remanded to Civil Court - -	1846	3 "
12 Nov. " -	Ditto ditto - -	1845	4 "
24 Dec. " -	Decree of Courts below reversed after two remands in 1840 and 1844 -	Uncertain	Above 15 "

64. That the above extracts are from cases first exhibiting the dates of the original suits; and they disclose a principal feature of the progress of civil suits, viz., a remand to the inferior courts, for re-investigation and decision de novo, sometimes causing the litigation to be re-opened ab initio, and involving a second course of appeal; and, although in these cases a portion of the stamp dues is remitted, still the pleaders must be paid, and other disbursements incurred, besides the fatigue and waste of time in journeying between the several courts, which, added to the uncertain and distant prospective of the final issue, are so harassing to body, mind, and pocket, that it would frequently be preferable to the successful party to have abandoned his rights, rather than to have exposed himself to the annoyance, expense, and interminable troubles of the Company's courts of law. And under all these considerations it will be obvious to your Honourable House, that where the value of the property in dispute is trifling, the lawful claimant would choose rather to forfeit his claim than prosecute it at an expense beyond its worth; and when the property is large, the heavy institution fee must act as a bar to the man of small means seeking the recovery of his rights by the appalling process of the courts of the Company; your petitioners consequently pray that trial at bar may be granted on a fixed day, with immediate decision, instead of an examination of witnesses from day to day, as they may delay their appearance; and shorter modes of executing the decrees.

65. That great as are the evils of delay and expenditure, another, scarcely less formidable, is to be found in the imperfectness of the machinery, to which, in point of fact, the two first mentioned evils principally owe their origin; and consisting in the absence of sound judicial capacity in the presiding officers, especially those of the lower tribunals; scarcely one of whom has even a moderate acquaintance of the vernacular language of the district in which he exercises his functions, has previously devoted any portion of his time to the study of jurisprudence, or experienced even a limited training in a judicial court; and this evil is further aggravated by the injudicious manner in which they are appointed or removed. The heads of the judicial courts are in a state of perpetual transition; when one of them goes away from his post he is generally replaced, ad interim, by the judge of another court, whose post also receives a temporary incumbent from a third court; and so on in a greater or less ramification of changes; all leaving many suits pending which have been partially heard by each of the judges prior to his temporary transition. Where these are intricate, the locum tenens usually allows them to lie over till the return of his predecessor; or, if the current business cannot be delayed, they are imperfectly investigated and hurriedly disposed of, manifestly to the prejudice of the suitor in either case.

66. That the indifference of the local government to the interests of the suitors in their courts is further apparent, from the circumstance that a party acquainted with the native language of one district is appointed to another with the vernacular of which he is wholly unacquainted

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unacquainted; and one instance has lately occurred where Mr. * * who is acquainted with Tamil only, was appointed to the Telugu district of Vizagapatam, where the administration, as governor's agent, of both civil and criminal justice devolves on him; while Mr. * *, acquainted with Telugu, was transferred from Cuddapah, a district in which that language is spoken, to Chingleput, with the vernacular of which district he is totally unacquainted. The consequence of such appointments and exchanges is, that the judge is necessarily thrown into the hands of the subordinates of his new court, at whose mercy the suitors find themselves almost entirely placed, with all the pernicious effects resulting from such an anomalous position.

67. That in connexion with the injudicious appointments to which your Petitioners have referred in the preceding paragraph, they beg leave to exemplify to your Honourable House a few recent and striking instances. In 1847 Mr. * * was appointed a judge of the Sudr Adawlut, the highest court of appeal in this Presidency, when the whole of his experience in the judicial line—and that nine years previously—amounted to no more than five years and three months. In 1847 Mr. * * who had been eight years, nine months, and twenty days in the same line, his whole period of civil service being only seventeen years, was sent as commissioner to Kurnool, such being chiefly a revenue appointment; and subsequently, in 1850, as collector of Salem; while Mr. * * only eleven months in the judicial line, saving a little experience while commissioner in Kurnool, was nominated civil judge of Combaconum, one of the most frequented courts in this Presidency. In 1850 Mr. * * who had never done a day's duty as a judicial officer, was made civil judge (an appellate office, and with unlimited jurisdiction as a court of the first instance) of the important district of Coimbatore.

68. That as regards removals your petitioners will instance the case of Mr. * * judge of the Sudr Adawlut, who, in 1850, was ordered to proceed as a commissioner to Ceylon, to investigate some matter concerning a military officer (in which the people of this Presidency had no interest whatever), and during whose absence suits, partially investigated by him, could not be disposed of, to the injury of the suitors therein, and in one case to a suitor's utter ruin from the delay; on which occasion Mr. * * who, out of a civil service of twenty-two years, had passed less than two years in the judicial line, and that also very long ago, was temporarily appointed to the place of Mr. * * ; and they will also quote that of Mr. * * who was taken from his seat on the Sudr bench in this year to proceed on a government mission into Malabar, on which he has now been absent nine months, and with the usual consequence of all suits examined or acted on by himself being suspended until his (uncertain) return; while, to conclude, the general character of the Company's judicial service with its common appellation in this country it is a "refuge for the destitute," all those persons who are too incompetent for the revenue department, being transformed into judges and dispensers of the criminal and civil law of the Mofussil.

69. Your petitioners, when thus submitting to your Honourable House the grievances endured by the people of this Presidency in the administration amongst them of civil law, are unable to lay down what might be deemed a fitting remedy; but they may respectfully, yet earnestly, press upon the consideration of your Honourable House, that the evil of delay acknowledged to exist in 1814 is still unremedied, and that a more summary adjudication of civil suits than can now be obtained is essential for the welfare, comfort, and happiness of the people; that this cannot be obtained without altering the present system of appeals; that in doing away with much of these appeals it is indispensable that the courts having summary and final jurisdiction should be presided over by two or more trained, experienced, and legally qualified judges; and that experience shows such heads of courts are not to be found in the civil servants of the East India Company, while, as at present, untrained and not specially educated for such responsible situations. Your petitioners would also suggest the propriety, amounting almost to necessity, of the class of superior judges being rendered incapable of displacement at the mere pleasure of the local government, in order to insure impartiality and justice in their decisions, especially in cases where the East India Company or the local government are parties to the causes to be adjudicated.

70. That besides the better training and more thorough education of the judges in a course of legal knowledge, your petitioners beg for a complete reformation in the practice of pleading, so that vakeels and pleaders may likewise be previously subjected to a course of sound and thorough instruction, and obtain licence to plead only upon regular certificates granted by the Sudr Adawlut, in regard to the necessity of which your petitioners beg to quote the language of the despatch already referred to, in paragraph 62.

"22. The defective and superficial acquaintance of the vakeels themselves with the Regulations, and their general inaptitude for the discharge of their duties, has long been the theme of complaint on the part of our servants under the Bengal Presidency, as well as by Colonel Leith, who was employed under your government in framing the original code of laws and Regulations, and who has, in his letter to the Chairman to the Court of Directors, of the 25th January 1808, of which we formerly transmitted you a copy, expressed his opinion on the subject of the vakeels, in terms which have particularly attracted our attention. There is perhaps (he says) no part of the judicial system which has been attended with worse consequences than the vakeel branch of it. They are, in general, extremely illiterate,

illiterate, and their situation gives them various opportunities of committing abuses which are not easily detected. In particular they have been accused of promoting litigation, by holding forth false promises of success to their clients. Their habits of intercourse with the natives, and their being, in a manner, the only persons who are acquainted with the Regulations, makes it easy for them to do so. I do not hesitate in saying that one great cause of the litigation and delay in law-suits has arisen from the native pleaders.

"23. Your Board of Revenue also, in the report to which we have already referred, have distinctly averred that the licensing of pleaders in vakeels had led to a series of fraud and corruption in the zillah and provincial courts, and they therefore recommend that in the revenue courts, which it was then in contemplation to establish at the Presidency, 'pleading ore tenus should be adopted, instead of petitions, replications, and rejoinders.' We therefore direct you to instruct the courts of Sudr Dewanny and Nizamut Adawlut, and the inferior courts, to communicate their ideas on this subject, and that you do thereupon revise the respective powers, together with the forms of process in both departments, with the view of rendering the proceedings in civil cases as summary as may be compatible with the ends of substantial justice;" and to inform your Honourable House that all things above noticed as injurious to suitors, arising from the ignorance and dishonesty of the vakeels, are as bad and common now as they were when Colonel Leith recorded his opinion.

71. That should it seem good to your Honourable House to do away with the oppressive system of ryotwar, and substitute in its place the ancient village system of the country, referred to in a former part of this petition, your petitioners pray that it may be restored in its integrity; the potail or head of the village and his village servants being invested with the superintendence of the local police, an appeal against his proceedings to the courts of justice being allowed; the institution of the village punchayet, which is now only optional, being rendered imperative, and composed of respectable ryots to be selected by the villagers in monthly rotation, the punchayet to take cognizance of civil causes for simple debt up to 100 rupees, with the power of passing a final decision when the amount does not exceed 20 rupees.

72. That a district punchayet be formed for a certain number of villages, the members being elected annually by rotation, having jurisdiction in suits to the extent of 500 rupees, to which appeals may be carried from the village punchayets in all cases within their cognizance above 20 rupees, and that an office of registry be established in each village, in communication with the collector's cutcherry, for the prevention of frauds. And your petitioners beg to refer your Honourable House to the 48th and following paragraphs of the same judicial letter from the Court of Directors to this Government, for a full and favourable account of the punchayet system, to which they have adverted; the paragraphs being too many to be quoted at length within the compass of this petition.

73. That the criminal courts of the Company are on a par with the civil courts; the judges being without any distinct legal training, excepting what is to be obtained in the revenue department, where they have all previously held the appointment of magistrate and justice of the peace; and although they have regulations furnished for their guidance, framed by the Sudr Adawlut, the members of which are persons selected from their own body, and whose whole stock of judicial information is derived from their experience in more subordinate situations, their proceedings are too frequently heterogeneous and based upon misapprehension of the regulations, and their insufficiency may be inferred from the facts that, in the year 1850, the latest date to which your petitioners have access, in one district, that of Rajahmundry, the disproportion of the persons punished to the number summoned was nine per cent. of the former to ninety-one per cent. of the latter, one hundred men having been brought up for every nine that were convicted; in other districts the ratio has been in some seventeen per cent., and in others ten per cent., while the average ratio in all the districts throughout the Presidency showed that the number brought up to the magistrate was twice that of the convicted parties; and these inconveniences, amounting very generally to injuries, are chiefly occasioned by the European magistrates giving their principal attention to their revenue duties, leaving those of the magistracy to be performed by their subordinates. That in two districts alone, those of Combaconum and Tinnevelly, the number of individuals against whom the charges were declared to be wilfully false and malicious was 2,064; while the number of persons punished for bringing those charges was no more than 136. In the whole Presidency, for petty offences before the police, 51,602 persons were detained for periods running from three days to sixty and upwards, of whom 11,823 were detained above thirty days; and as the number punished altogether was only 45,829, it follows that many were detained who were not offenders. Again, it is to be remarked, that 12,543 persons were detained from three to upwards of thirty days for crimes and misdemeanors, while the provisions of clause 4, section 27, Regulation XI. of 1816, limit the time for inquiry to forty-eight hours.

74. That these few facts, taken from the report of the Foujdaree Adawlut, sufficiently demonstrate the ill-working of that part of the administration of criminal justice which is entrusted to the police; much of which might be remedied if the magisterial power were taken away from the collectors and their subordinates, who have full employment for all their time and talents in the performance of their duties connected with the collection of the revenue; and on account of which, as above remarked, they depute so much of their functions connected with the police to the tehsildars; that, although your petitioners cannot

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distinctly discover, from the report of the Foujdaree Adawlut, the individual crimes of the accused parties in the police cases, they are yet perfectly sure that the far greater portion have been made to arise from the demands for the revenue; the tehsildars being able, in their magisterial capacity, to trump up false accusations, and to involve any number of persons in their charges; this circumstance accounts for the number of parties brought up to the police who were ultimately discharged; for the admitted number of false and malicious charges; for the paucity of punishments affecting the authors of the charges; and for the numerous detentions in violation of the Regulations: besides this, the police being all under the collector, and always more attentive to the exaction of the revenue than to the preservation of the lives and property of the people,—the natural consequence is that burglaries, highway and gang robberies are more or less prevalent in every district; which could not be the case if the police were efficient and performed its proper duty, Your petitioners pray, therefore, that this anomalous state of things may be rectified; that the police may be made a separate department, as it was before the Regulation of 1816; and that it may be enlarged to the extent necessary for the effective protection of the country.

75. That the "Select Reports of Criminal Cases." determined by the same court, afford abundant instances of the ill-working of that part of the administration which is committed to the higher class of criminal judges, of which your petitioners will briefly quote a few cases. At Masulipatam, at the third quarterly session of 1838, a person named Kota Ramudu and fifteen others were tried for gang robbery and murder, in an attack on the talook treasury at Ellore, two of whom were convicted and sentenced to fourteen years' hard labour in irons; on the case coming before the Foujdaree Adawlut the sentence was changed into transportation for life; subsequently to which, further evidence was produced, which the said court considered conclusive as to the innocence of the condemned parties, and orders were given for their release, but in the interval one had died at the place of his transportation, the other was brought back, and, to quote the language of the reports, a "present of money was bestowed upon him by Government by way of compensation for the hardships he had undergone." At Coimbatore, in October 1845, Ramadattan and four others were tried for murder, when the session judge convicted them all, and recommended that they should be severally sentenced to death. In this recommendation, the first and third puisne judges of the Foujdaree Adawlut, Mr. * * and Mr. * *, coincided, but the second judge, Mr. * *, expressed his conviction that the murder had been perpetrated by two of the witnesses, and proposed that the trial should be laid before the chief judge, Mr. * *, who concurred with Mr. * *, when an additional judge, Mr. * *, was appointed to go into the case, and he concurring with Mr. * * and Mr. * *, the prisoners were acquitted, and the session judge was reproved for not having properly attended to the Regulations. In June 1848, Madiga Potaraza Karra Tippadu and two others were tried in Kurnool, before the agent to the Governor of Fort St. George, on the charge of murder. The agent convicted Madiga, and recommended that he should be hanged, and that the second prisoner should give security. The court of Foujdaree Adawlut considered "the evidence too weak and inconclusive for the conviction of, or even for a requisition of security from, any of the prisoners charged;" acquitted Madiga, directing his unconditional release, and issued orders for the annulment of the requisition of security under which the second prisoner had been placed. After this sentence of acquittal had been passed by the Foujdaree Adawlut, the agent received information that the commission of the murder had been perpetrated by an unsuspected person named Sanjivigadu, who had confessed his guilt and surrendered himself to the police. The agent of the Governor at this period was Mr. * *, whose eleven years of judicial experience would have hanged three innocent persons, upon evidence insufficient to demand a requisition of security from any one of them. In August 1850, Govind Row was tried at Coimbatore for murder and robbery. "The session judge, Mr. * *, in concurrence with the Mahomedan law officer, considered the evidence to be conclusive as to the prisoner's guilt, and referred the trial for the final judgment of the Foujdaree Adawlut, with a recommendation that he should be sentenced to suffer death." The Court observed that the examination was defective, and that there were discrepancies and omissions in the evidence for the prosecution which vitiated the proof of several circumstances. They accordingly acquitted the prisoner of the crime charged, but ordered that he should find two securities in fifty rupees (5 *l.*) each, for good behaviour and appearance when required within three years.

76. That your petitioners restrict themselves to these four cases, because they are desirous not to lengthen their petition unnecessarily; but they would request the attention of your Honourable House to the last instance quoted, it having come under the cognizance of Mr. * *, the officer whom your petitioners have mentioned in an earlier paragraph, as having been appointed judge at Coimbatore, without having ever done a day's duty as a judicial officer. It is not, therefore, surprising that his examinations should exhibit discrepancies, defects, and omissions, nor that he should be obliged to lean on the Mahomedan law officer for support and guidance; which would have cost the prisoner his life except for the interference of the superior court; when Mr. * * could go as far wrong as he, after a duty of eleven years in the judicial department.

77. That these four instances are enough to show the absolute necessity for a change in the judicial system as regards the appointment of judges holding jurisdiction over the lives and persons of Her Majesty's subjects in this Presidency; and your petitioners may desire a change in the laws or Regulations also, by the introduction of a better code than that of the

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the Mahomedans; by which, to name only one particular, adultery is made a criminal offence; whereas by English and Hindu law it is one of civil action for pecuniary damages. A comprehensive code, published in English, and translated for the information of the public, would do away with the necessity of muftees or Mahomedan law officers; while the restriction of judicial employment to a separate class of persons, trained to an acquaintance with it, both by theory and practice, would render the judges at home in their own courts, and instil a confidence among the people which is, and must ever be, wanting in the Regulations and judges of the Company as at present constituted.

Public Records.

78. That great inconvenience is continually resulting to the people from the impossibility of getting access to the public records and documents of the various offices, of which your petitioners will give two or three instances. In the year 1846, the Hindu community forwarded to the Court of Directors, through the local government, a memorial, the receipt of which was acknowledged by the chief secretary, with the remark that the memorialists ought to "refrain from representations touching the proceedings of Government, whilst the facts and official documents which alone contain the true record of these facts are unknown to them;" and when, on this intimation, an application was made for certain information connected with a second memorial then in course of preparation, the same chief secretary replied that the application was irregular, and instead of supplying the information, referred them to the former letter. In the present year the Madras Native Association applied for access to official data, necessary to enable them to draw up this petition to your Honourable House, when no notice was vouchsafed to their application; and, lastly, about five months ago, on the 9th July, application was made on behalf of the memorialists for the second time, requesting to be informed if the orders of the Court of Directors—which the Government had stated in reply to a previous application it was then awaiting, in consequence of the Court's despatch not being sufficiently explicit—had been received; and if so, that they might be communicated to the memorialists: the chief secretary ordered it to be recorded, but has given no answer up to the present date. There are also innumerable instances in which natives accused to their superiors of misconduct, are constantly refused copies of office documents by which to establish their defence and free themselves from false accusations. Your petitioners therefore request that parties on making application may be entitled to take or to receive copies of such papers as they may wish to possess for such purposes; as well as that all official papers of general interest may be printed for sale at cost price: by this practice the Government would be considerable gainers, as its acts and the reasons of them would thereby be rendered public, together with their attendant circumstances; and they would no longer be subject to misrepresentation and misconstruction, as they are, and must continue to be, under the operation of the present system of official secrecy.

Education.

79. That your petitioners will next advert to the state of national education in this Presidency, in the hope that your Honourable House will take measures for enforcing the obedience of the local government to such future Regulations as the wisdom of your Honourable House may lay down for its guidance in the time to come. Your petitioners will trace the subject no further backwards than to the year 1826, when Sir Thomas Munro, being Governor, proposed in a minute, dated 10th March, that the system of native education should receive assistance from the State, which should be small at first, but increasing gradually till it extended to the formation of 40 collectorate schools, and 300 tehsildary schools for the entire Presidency, the estimated expense, when in complete operation, being calculated at 48,000 rupees. The Court of Directors, in a despatch, dated the 16th April 1828, sanctioned the annual appropriation of 50,000 rupees for this purpose; and immediately on the receipt of this sanction the proposed plan was put into partial operation, and continued till the year 1834, when the College Board for Native Instruction declared it a great failure. On this the Government proposed a modification of the plan, extending the expenditure to 90,000 rupees, which on being referred to the Supreme Government was disapproved of by that authority, which recommended an effective seminary at Madras for instruction in English, and provincial English schools, as far as the allowed funds should be available. From this time projects were formed but not carried into effect, till, on the 12th December 1839, the Government deemed it expedient to establish a central collegiate institution at Madras, which was to be self-supporting, by means of public donations and the exaction of fees from the pupils. The institution was opened on the 14th April 1841, when it was publicly stated that, should it "appear to answer its design, and require in its early existence some small pecuniary help at the hands of Goverment, the School Board would recommend with confidence its interests to the Government;" but no donations being forthcoming, and the number of pupils few, from that period to the present, the annual sum of from 25,000 rupees to 30,000 rupees has been regularly granted to the institution.

80. That it will thus be apparent that, instead of education being shared equally among all the districts of the Presidency, it is confined altogether to the town of Madras, in which a single school, attended by 160 pupils, on the average of its ten years' existence, absorbs more than one-half of the grant awarded for the entire population of twenty-two millions, while the other half of the grant has lain useless in the Government treasury ever since the grant was in existence.

81. That while the Presidency of Bombay, with a population of ten millions, and instead of yielding a surplus revenue, has a deficiency of 50 lacs of rupees annually, enjoys a grant of a lac and a quarter of rupees, and communicates instruction at 185 schools, frequented by

Appendix, No. 7. by 12,712 pupils, Madras, with her actual surplus revenue of 73 lacs of rupees, and more than twice the population, is stinted to two-fifths of the amount, and by the parsimony and indecision of her local government, has been deprived of one-half of even this small allowance ever since the grant was made by the Court of Directors.

82. That your petitioners desire from your Honourable House the increase of this grant proportionately to the number of the population, and the establishment of efficient schools throughout all the districts of the Presidency, their number and location to be totally irrespective of the schools established by the various missionary societies for the purposes of conversion; and, as the English language is at present but very little known in the interior, they desire that the teaching of the vernaculars, instead of being neglected as at the Presidency, shall meet with the attention they so greatly need, and to that end that provision be made for the translation of useful and scientific works from the English, for which special purpose there could be appropriated the eight lacs of rupees now lying in the Government treasury, and being the remaining surplus of the pagoda funds or revenues accruing to the Hindu temples whilst under the management of Government officers.

83. That with reference to the subject of national education, your petitioners are anxious to bring to the notice of your Honourable House certain proceedings which are now in train, in order to appropriate part of the educational grant towards the assistance of missionary or convertising operations, as they exist at various stations throughout this Presidency, under the name of a "Grant-in-aid System," by which it is proposed to extend the pecuniary assistance of Government "to other institutions which are now or can be made the instruments of imparting a sound and liberal education, whether conducted by missionary bodies or others;" with which view the Government has issued a circular in the Public Department to the different collectors, in which each is directed to "furnish the Government with the best and fullest information in your power regarding the educational institutions within your district, whether conducted by private parties, or missionary or other public bodies;" and has further recorded in Minutes of Consultation, dated 1st November 1852, "The Governor in Council is not of opinion that any Government schools should be set up at stations in the provinces where private missionary or other public seminaries have already been established, and have been found adequate to the instruction of the people. To that opinion he will now add, that he considers it very desirable to extend moderate pecuniary assistance to such schools, as a means of diffusing education on sound and unexceptionable principles, and he proposes that the honourable Court be solicited to entrust the Government with a discretionary power on this point."

84. That your petitioners would point out for the consideration of your Honourable House that this proposed appropriation of the education funds to the support of Christian institutions was rejected by the Court of Directors in a despatch to this Government, dated 24th August 1844, in reply to an official application in behalf of an institution at the Presidency, called "Bishop Corrie's Grammar School," on the ground that it did not come "within the object of the funds set apart for the promotion of native education." There is also on record a letter of the Court of Directors with reference to the introduction of the Bible as a class-book into the schools to be established from those funds, which says, "The provincial schools and the Madras University are intended for the especial instruction of the Hindoos and Mahomedans in the English language and the sciences of Europe; we cannot consider it either expedient or prudent to introduce any branch of study which can in any way interfere with the religious feelings and opinions of the people. All such tendency has been carefully avoided at both the other Presidencies, where native education has been successfully prosecuted. We direct you therefore to refrain from any departure from the practice hitherto pursued."

85. That your petitioners hereupon represent to your Honourable House, if it be contrary to the intentions for which the educational grant was bestowed, to devote any portion of it in aid of an institution where convertism is neither professed nor practised, as at Bishop Corrie's Grammar School, or to permit the establishment of a Bible class in any of the Government schools, although the attendance at such class was to be left entirely optional with the pupils, it would be a much wider divergence from the object, and a much greater "interference with the religious feelings and opinions of the people," to apply the funds especially at the discretion of the Madras Government, at all times notorious for its proselyting propensities, in support of missionary institutions, wherein the study of the Bible is not optional but compulsory, and which are avowedly set on foot and maintained for the single object of convertising the pupils, to whom on that account education is imparted free of charge; and your petitioners conceive that the support of such institutions by the Government would be productive of the worst consequences, as it would distinctly identify the ruling authorities with the one grand object of such schools, the proselytism of the natives; the only difference between which and the undisguised practice of convertism in the schools supported solely by the State would amount to this:—Government would pay twice the price for a convert of its own direct making which it would have to pay under the "Grant-in-aid" to the seminaries of the missionaries; at the same time it would place itself at the head of all the missionary societies in the Presidency, doubling their pecuniary resources, enabling them to increase the number of their agents, and to extend their convertising operations, exactly in proportion to the "discretionary power" with which this government, in the Minutes above quoted, desires to be entrusted.

86. That

86. That your petitioners cannot avoid remarking, that the desire of the Madras Government with regard to rendering the educational funds committed to its trust subservient to the purposes of proselytism, is of some standing. The Marquis of Tweeddale, while entertaining the proposition of the Council of Education, to adopt the Bible as a class-book, recorded his approbation of the measure, observing, in a Minute dated the 24th August, 1846, "The value of a religious and practical education to fit our countrymen for the various duties of life has been established beyond all doubt;" and again, "The reports and complaints so constantly made to Government against the integrity of the native servants are sufficient evidence that something is wanting to ensure a faithful service from them;" and again, "It requires a more solid foundation than is to be found in the Hindu or Mahomedan faiths to bear the change which learning operates on the mind of those who are placed by their superior ability in responsible situations in the employ of Government." And the present Governor in Council in his Minute, approving of the "Grant-in-aid" to the missionaries, has deemed it expedient to record, "Although it is perhaps not immediately relevant to the subject of these proceedings, yet as it is a momentous point in looking at the general question of education to the natives, the Governor in Council is compelled to state, both from observation and sedulous inquiry, that he has arrived at the conclusion that the people of this part of India, at least, have neither by any means had their minds expanded and enlarged to the degree that might have been anticipated through the instruction and care that has been bestowed upon them, nor has he seen any sufficient reason to indulge a belief that their innate prejudices have been removed or even lessened, or their moral character and sense of veracity, integrity, and proper principle improved. He does not deny but that there may be occasional bright exceptions; but he is of opinion that, whatever system of education may be enforced hereafter, its chief aim ought to be directed to moral improvement, combined with extirpating the foul vices of untruthfulness and dishonesty, which are hardly now held by the great masses to be a reflection, unless discovered."

87. That your petitioners do not consider this the proper place to remark upon the gratuitous insult offered to their whole community by the Government, in recording such an opinion for the sole purpose of transmission to the governors of the Madras University, one-half of whom, to the number of seven, are natives, under its constitution; but they beg to observe that it ill becomes the Government to taunt the natives with "the instruction and care that has been bestowed on them," whilst it has for so many years declined disbursing one-half of the educational grant, and contented itself with keeping up a school of 160 pupils, established so far from the town of Madras as to make it inconvenient for persons to send their children, besides charging a school fee beyond the means of payment by the masses: and when, besides this ill-located and over-charging institution, there is not a government school over all the 140,000 square miles comprising the Madras territories.

88. That the sweeping condemnation, if it be justly founded, which your petitioners are rather loath to believe, seeing that Sir Henry Pottinger has never been known to mix with the natives, except now and then when he may have presided at the annual university examinations, and other such meetings, and with the servants of his household, exhibit the fallacy of both the past and present governments, in imagining the study of the Bible to be a panacea for the "vices of untruthfulness and dishonesty;" for, as the whole of the instruction and care bestowed on the natives, beyond that bestowed upon the 160 pupils of the university, has been missionary care and instruction, devoted to the study of the Bible, and that in the proportion of thousands to tens, it must be apparent that the "sound and unexceptionable principles" adverted to in the minute, have done literally nothing for the "moral improvement" of the pupils into whose minds they have been so sedulously instilled, and therefore there can be no valid reason for extending a "grant-in-aid" to institutions which have thus essentially failed; but there is a very strong reason against such aid being given, in order to assist in the conversion of the people, with whose religious feelings and opinions the Court of Directors has so frequently pledged itself not to interfere; and with regard to which the present Charter Act, passed by the Imperial Parliament, enacts and requires, that the Governor-general in Council shall by laws and regulations provide for the protection of the natives within the British territories from insult and outrage in their persons, religions, or opinions.

Church Establishment.

89. That your petitioners being aware, from several sources, that both the Anglican and Scottish state churches are making great efforts, both in this country and in England, for an increase of clergymen upon their respective establishments in India, respectfully, but most determinately, remonstrate against any increase to either. They admit the propriety of military chaplains for the European troops, but repudiate the injustice of the people of this country being compelled to support a couple of state establishments, for a mere handful of foreigners, professors of a foreign creed; and, while they will not object to the number of clergy already in the country, they desire to see them appropriated entirely to the military service, and that whatever augmentation be needed, the requisite funds shall be provided by the individuals by whom such services may be requested. The community to which your petitioners belong supports its own religion; so do the Mahomedans and the various dissenters from the Church of England at this Presidency; even the Anglicans have commenced to do the same, and justice demands that they should be left as much to themselves as all other sects are; and your petitioners earnestly pray your Honourable House that the people of this country may be no further taxed for the maintenance of a number of individuals who

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who are of no earthly use to them; but that their expenses may be borne wholly and solely by those persons to whom their ministrations are necessary and acceptable.

Exorbitant and ill-used power of the Legislative Council.

90. That your petitioners would be wanting in their duty towards the entire Hindu community, from one end of India to the other, if they omitted to complain to your Honourable House respecting the enormous power granted to the Governor-general in Council, and the unjust partiality with which that power has been exercised, in what it has been pleased to term the Lex Loci, by which is meant an enactment subverting in one of its most essential and venerated points the Hindu law of inheritance, guaranteed to them on various occasions by the local government and the Court of Directors, and further sanctioned and secured to them by special Act of Parliament, 21 Geo. 3, c. 70, which provides that the "inheritance and succession to lands, rents, goods, &c., shall be determined, in the case of Mahomedans, by the laws and usages of the Mahomedans; and in the case of Gentus, by the laws and usages of Gentus; and where only one of the parties shall be a Mahomedan or Gentu, by the laws and usages of the defendant:" and again, "that all the rights and authorities of fathers of families, and masters of families, according as the same might have been exercised by the Gentu or Mahomedan law, shall be preserved to them respectively within their said families."

91. That the subversion of the rights thus guaranteed by the Indian and home authorities, as well as by the Imperial Parliament, was first openly attempted in the year 1845, when an Act intituled the Lex Loci was drafted, and the draft published, for general information, on the 25th January; immediately consequent upon which publication, remonstrances from the majority of the three Presidencies were sent up to the Supreme Government, and the Act did not pass into law; between that date and the year 1849, it was discovered that, so far back as the year 1832, there had appeared in the middle of a Bengal Regulation, about revenue matters, zillah judges, moonsiffs, ameens, &c. &c., and consisting of 18 sections, a few lines, forming section 9, directing that, "in civil suits wherein the parties are of different religious persuasions, the Mahomedan and Hindoo laws shall not be permitted to operate to deprive of property to which, but for the operation of those laws, the parties would be entitled."

92. That this section, with whatever intentions it may have been originally framed, never had more than one instance of practical application during the 13 years subsequent to the Regulation, viz. in May 1849, after the correspondence on the Lex Loci had occasioned the discovery that these sections were in existence, and it was during all the previous time unknown to the bulk of the population, whose attention was first attracted to it by its reproduction in 1849, in order to render it applicable to the whole of India. That in rendering it so applicable, the law member of the Legislative Council, Mr. Bethune, recorded the following observations, "I have prepared an Act for this purpose, though with some lingering doubt of the justice of the measure. According to Hindoo notions, the right which a son has to succeed to his father's property is commensurate with his obligation to perform his funeral obsequies, from which the outcaste is necessarily excluded. Put the case of property bequeathed in England to a man on certain conditions, which conditions he by his own voluntary act renders himself incapable of performing, what should we say to a law which nevertheless secures the property to him?" Mr. Dick, a judge of the Sudr Dewanny Adawlut, also recorded, "This Act differs essentially in principle from Regulation VII., 1832, section 9. That did not in any way interferfere with the religion of the Hindoos; this does. The law of inheritance of Hindoos is founded on their religion."

93. That, notwithstanding Mr. Bethune's confession of its injustice, and Mr. Dick's remark that the Act proposed was so "essentially" different from the Regulation, the Act was determined upon by the four members of Council, Messrs. Bethune, Littler, Currie, and Lowis, and passed into law under the declaration that it was merely the extension of the principle of the Regulation from the Presidency of Bengal to all the territories subject to the government of the East India Company, with the concurrence of the Governor-general, Lord Dalhousie, who recorded that he could "see no semblance of interference with the religion of the Hindoos, nor any unauthorized interference with rights secured to them."

94. That the Act thus passed in 1850 has been stretched, even beyond the principle on which it was professedly framed, by * * puisne judge of the Supreme Court of Judicature at this Presidency, in the following instance. A married Hindoo, named * *, became the convert of a missionary agent, named * *, by which act the convert renounced his caste, and thereby forfeited all claim to his former relationship, including that to his wife, to whom by the Hindu law he became virtually dead, and she herself bound to perform his funeral obsequies. The wife, adhering to the faith of her country, refused to associate with him in his new condition, and remained with her own relations for some time, until she was ordered to appear in court, under a writ of *habeas corpus* granted on the application of the said * *, and served upon the woman's father, by whom the affidavit of the convert stated that she was, against her will, detained.

95. That the return to this writ was a denial by the father that his daughter was, or had been, in his custody, and it was supported by an affidavit, that "neither he nor any one by his order had ever exercised any constraint over * * " his daughter. In the meantime, however, * * had been inveigled to come into court at the persuasion of her father's legal adviser, upon the false assurance that she would be permitted her free option of going to her husband or returning to her relations. She accordingly came forward on being called for, and after counsel had been heard on both sides, * * having first refused the

the request of the father's counsel "to ascertain the wishes of the girl," proceeded to give an elaborate opinion, concluding with the assertion, that "the Act passed in 1850, in this country, has swept away, as to all force in courts of law, that system in India which was equally tyrannical and oppressive," and with this declaration he ordered * * to be delivered over to the custody of her husband. "This order for the delivery of * * to her husband," your petitioners quote the words from a printed pamphlet, entitled "The Case of * * " edited and prefaced by * * "was no sooner made known to her, than she manifested a decided unwillingness to be given over, and on the approach of * * to take her by the hand, she sharply repulsed him, saying, 'You have nothing to do with me.' At the same time also her aunt, by whom she was accompanied, began to utter loud wailing and lamentations, and clung to her niece with a view to prevent her being taken away. Eventually the judge was compelled to direct one of the officers of the court to separate * * from * * , and to remove the latter to one of the rooms in the court, where * * joined her. The scene was altogether most exciting. The wailing of the aunt and the screaming of * * as she was being carried out of court caused painful sensations. Added to this, the Brahmins and others present, by their vociferations and gestures, exhibited the rage and displeasure they felt at the decision. For a time the tumult was so great as to wear a threatening aspect, but, through the excellent management of the magistrate, Mr. * * and his police, the place was cleared, and * * was conveyed to Sullivan's Gardens in safety." Sullivan's Gardens, your petitioners beg to state, are the residence of the converting missionary, into whose carriage, and with whose assistance, she was violently thrust by the officers of the court, and whose prisoner * * remained till he had converted her, and procured a government situation for her husband, which, being a very common mode of enticement practised by certain of the Company's covenanted officials, was no doubt, among others, an inducement that led * * to apostatize from the faith of his forefathers.

96. That this compulsory conversion of * * under the auspices of a judge already notorious for carrying his proselyting inclinations to the bench of the Supreme Court, and there acting upon them, proves that, although * * could see "no semblance of interference with the religion of the Hindoos," when he concurred in passing the Act of 1850, it is, in point of fact, a ready and most powerful instrument of such interference, in the hands of such judges as * * , under whose judicial opinion respecting its interpretation, with regard to "rights and property," the convert can not only claim and seize upon property to which he has no title, except under the law which declares his forfeiture of it; but in all cases of copareeny-cases that more or less exist in every Hindu family, he can violate and trample upon the rights of his relations, by introducing himself into the pagodas, choultrees, and houses, which are family property, claiming the full right to their ingress, occupancy, and the share of their management, and the direct and perpetual interference with all the social and religious privileges of the Hindus, from which he is shut out by the law under which he obtained them, and to the enjoyment of which, to the annihilation of that law, he is restored by the Act of 1850, as interpreted, laid down, and put in operation by * *.

97. That your petitioners cannot but consider the decision of * * as erroneous as it is tyrannical and oppressive; for in a more recent instance at Bombay, wherein a Hindu convert sought to recover his wife by means of a *habeas corpus*, the Chief Justice, * * refused to let it issue, and delivered his reasons in open court, referring at the same time to the decision of the Madras puisne judge, as reported in the following sentence—"With reference to the case decided at Madras, his Lordship admitted that it militated very strongly against the principle he had laid down, but, bound as he was to pay every respect to the opinion of * * he * * felt it his duty to say that he differed from it entirely. His Lordship had therefore no hesitation in refusing the present application."

98. That your petitioners, feeling themselves highly aggrieved by the practice of * * in deciding cases in which missionaries and Hindus are the opposing parties, by his religious feelings rather than the principle of justice, beg to advert to two of his former decisions; the first of which was passed in the year 1846, in which a Hindu boy, named * * was produced in court, his father asserting that he was not of age according to Hindu law, the missionaries on the contrary asserting that he was of age, when the puisne justice, not being otherwise able to favour the missionaries, said he should decline resting what was his view of the case upon the mere point of age, and that it was not years but discretion that was to guide the court in this matter. He accordingly put a few questions to the lad, one of which was, "Does Christ forgive sins as God, or Mediator?" To which the reply was, "as Mediator." After which he observed, "He is choosing good for himself, he is choosing that which he believes will be for his salvation;" and, making his good choice, the evidence that he was of age to choose, he delivered the lad into the hands of the missionaries.

99. That the second instance happened in 1847, the child in dispute being a female, named * * , upon which occasion * * alluding to his former decision, in the case of * * , acknowledged, that, "had the object of his choice been bad, I should have come to another decision." There was, however, no occasion this time to substitute discretion and a good choice in the place of age, as an affidavit was put into court from two doctors in the Company's service to this effect, "We, upon our oaths, say that we did, at the request and in the presence of the reverend * * on the 19th April 1847, examine and inspect the person of * * and that we are of opinion that the said * * is of the

age

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age of 12 years, or thereabouts;" with reference to which the puisne judge remarked, "We know that there is no circumstance, no temptation, no consideration, no interest, that would lead these gentlemen to deceive this court. We know what they state they have seen and do believe;" and accordingly the court adjudged the possession of the girl, thus shamelessly and insultingly submitted to examination and inspection by three men, one of them a Christian minister to the missionaries, although the fact that she was not of the age of puberty was incontestably proved, from the very circumstance of her being allowed to attend Mr. * * school,—Hindu females, after that period, not being permitted to go abroad, unless they are married women.

100. That from these circumstances, as well as others wherein * * has expressed himself inimical to the Hindu community, in open court upon the bench, your Petitioners earnestly beg that no more judges affected by a religious bias which induces them to carry their peculiar creed to the bench of justice, and there to follow its impulses in their decisions of cases brought up for their adjudication, may be appointed either to the puisne or chief justiceship in the supreme court at this Presidency; conduct like that to which your Petitioners have been referring being calculated to inflict great misery upon the Hindu community in their social relations, and to create public disturbances, leading to the most mischievous consequences, among a people patient and submissive under every change of government, and roused to the open expression of their feelings only by what they consider to be grossly insulting and cruelly oppressive towards a religion of some thousand years' establishment, and which has been handed down to them as the most sacred deposit from their ancestors.

Subordinate Presidencies.

101. That your Petitioners, as subjects of the Madras Presidency, beg to represent to your Honourable House the injustice and injury they suffer from the system which places the whole of its resources at the disposal of the Supreme Government, by which the improvement of this portion of India is retarded, and the poverty of the population impoliticly augmented. Not only is the local government prohibited from disbursing the public revenue raised within it to local purposes; but a large portion of it is so brought upon the general books of the Supreme Government as to depreciate the value of the Presidency as a distinct portion of British India, and to make other portions of it appear more valuable than they really are; and this factitious system of accounts is made a reason with the paramount authority for denying the improvements of which Madras is so deplorably in need, and to which she is most undoubtedly entitled.

102. That, as an instance of this injustice, your Petitioners will explain, that many years ago the sum of 50 lacs of rupees, or 500,000 *l.*, was fixed as the amount which Madras ought to contribute to the general expenses of the Indian empire, over and above her own charges; and from 1821 to the present time it has been the constant practice with the Supreme Government to press retrenchment and economy on this Presidency, and to refuse sanction to expenditure or improvements essential to her advancement, on the plea that her surplus fell short of that required amount; and thus Madras is screwed down to the lowest point, on the false ground that she does not pay her fair quota of revenue, while Bengal, on the reputation of an enormous surplus, is allowed to make disbursements too frequently bordering upon wasteful extravagance.

103. That this different treatment observed towards two component parts of the same empire, even if the case stood as is fallaciously pretended, would be scarcely just, most certainly ungenerous, and singularly impolitic: but if the case be otherwise, the treatment of Madras is not simply unjust and impolitic, but becomes an act of tyrannous oppression; and that the case is otherwise your Petitioners proceed to show. The surplus is counted over the 50 lacs settled as the amount of her own expenditure, which includes the military charges incurred on her own account only; but for a series of years past a large part of these charges has been incurred on account of troops garrisoning countries the entire revenues of which are paid into the treasuries of Bengal and Bombay, viz., the Sauger and Nurbadda country, Mhow, Nagpore—the subsidiary force, Cuttack and Balasore, Tenasserim coast, the Straits settlements, and Aden, belonging to Bengal; and the southern Maharatta country, belonging to Bombay: the Madras force in all these several districts or stations amounts to four regiments of native cavalry, and 16 of infantry, together with one troop of horse artillery and 10½ companies of foot artillery, the charges for which are within a fraction of 80 lacs of rupees, or 800,000 *l.* per annum, which, though defrayed by her, are no part of "her own charges," and amount to 30 lacs over and above the surplus at which her revenue was rated, in order to entitle her to draw upon her own treasury for local "expenditure and improvement:" but, besides this, the official statements, published by order of your Honourable House, have given her a credited surplus for several years past, the latest your petitioners have access to being that of 1849–50, in which it is set down at 43 lacs and upwards, which, added to the 30 lacs arising out of the military expenses incurred on account of Bengal and Bombay, give her for that year no less than 73 lacs beyond her quota towards the general expenditure of the empire, and which, as such, ought to have been at her own disposal.

104. That besides this giant injury, there are many others occasioned by the centralization of authority in the Supreme Government. No alteration of salaries, no revision of office establishments, can be made without the previous concurrence of the controlling power, and the difficulties and delays in the way of obtaining this concurrence are such, that the heads

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heads of offices will put up with experienced inconveniences, both temporary and permanent, rather than seek so laborious and troublesome a remedy. Instances have been known in which such applications received no notice for nearly two years, and, when a reply was again solicited, the answer was a request that copies of the papers might be sent, as the originals were lost. Sometimes it has been proposed by the Madras government to modify establishments by reduction in one quarter, in order to strengthen another, and the result of the application has been, that the reductions have been sanctioned and the additions refused. Very recently the engineer officer of the 1st division, Colonel Arthur Cotton, having satisfied himself by local inquiries that reasonable ground existed for believing that the River Godavery might be rendered navigable for 400 miles inland from the sea, applied to the Madras government for a small sum of money to enable him personally to explore the river in a small steamer he had himself built for the service of the Godavery annicut; but on the sanction of the Supreme Government being requested to an outlay for this purpose not exceeding 1,000 *l.*, it was refused, because the President in council did not see what advantage could be gained by this project, although by its accomplishment the culture of cotton in the province of Berar would have been indefinitely extended for the consumption of the Manchester manufacturers, and the grain-producing districts in the delta of the river would have found access to markets from which they are now permanently excluded.

Modification of the councils.

105. That this utter preclusion of all improvement to this Presidency, from the systematic obstructiveness of the Supreme Government, compels your petitioners to request that in the arrangements of your Honourable House for the future government of India the Governor in council at Madras may be allowed the free use of its functions, necessary for providing for the welfare and prosperity of the people entrusted to its care; and that its construction be modified after the precedent of the neighbouring Crown settlement of Ceylon, where the council is composed of official and non-official members, and, among the latter, natives of this country are included. That your petitioners would suggest that this council be composed of officials and non-officials in equal number, six or seven of each; the former to be nominated by the Government on taking their place at the council board in virtue of their office; the Advocate General being one, and the latter to be selected by the Governor, out of a list of 18 or 21 persons, chosen by the votes of the ratepayers in Madras, and of persons eligible to serve on the grand and petty juries, or in such other manner as your Honourable House may deem preferable; that as the official members, in conjunction with the casting vote of the Governor when requisite, could always carry any point of absolute importance, there could be no hindrance to the safe working of the suggested plan, while a sufficiency of information on all subjects would be afforded; which, together with the discussions being carried on as at Ceylon, with open doors, could not fail to be of the utmost utility to the advancement and prosperity of the people and the Presidency.

106. That all minor subjects should be definitively determined by the Governor in council; but, on all questions of importance, their decisions should be transmitted to the government of India, there to be again publicly discussed, prior to sanction or rejection; and also that on any minor subject, determined by the casting vote of the Governor, there should be an appeal from the minority to the Supreme Council; and, as your petitioners are aware that a more economical public expenditure is imperatively necessary, they would propose that the salary of the Governor be fixed at seven thousand rupees per mensem, and that the salaries of all persons composing what is now termed the covenanted service be reduced prospectively, in similar proportion; that the members of council shall draw no salary for that appointment, and that, as is now the case in Ceylon, the holders of official situations shall constitute the service, instead of an appointment by covenant conveying a claim to be employed by the State exclusively to all others.

107. That, in the deliberate opinion of your petitioners, legislative councils thus or similarly constituted, and entirely distinct from the executive, are as feasible on this continent as in the neighbouring island of Ceylon; and that their constitution is the great desideratum for the just and efficient government of each presidential division of the vast empire of British India; all general questions of political importance, involving peace and war, and the movements of the military and marine forces consequent thereon, together with the requisite, but salutary, control of the subordinate councils, being vested in the Supreme Government for all India. That a single council for the whole of India, although constituted on the same popular principle, would never be able to distribute justice and effective government to a hundred and twenty millions of people, spread over an area of upwards of a million and a quarter of square miles, and comprising so great a variety of races and languages: the more distant provinces, as is the case at present, would be neglected and oppressed; while the nearer ones would absorb all its attention, and engross the whole of its indulgence: whereas, by granting to each Presidency a local government for the management of its internal affairs, the members of it would watch over the interests of the whole circuit committed to their charge; of which, from their local knowledge, they would be enabled, and from their sympathy would be induced, to seek and pursue the welfare and progressive improvement.

108. That with respect to the Supreme Council, your petitioners suggest that it should, in some degree at least, partake of the popular element recommended to be embodied in the councils of the Presidencies; which should have their respective interests equally represented by a like number of members, the whole of whom should be allowed a reasonable and respectable salary; they being prohibited from holding any other office in conjunction with

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with that of councillor: and that, besides the presidential representatives, there should be three others appointed from England, who, besides being members of the legislative council, should constitute the executive council, the Governor-general being the president of both, the executive of the subordinate Presidencies consisting of the Governor, and the members ex-officio to the number of three, in addition to the president.

109. That your petitioners, knowing from experience the inexpediency of the home administration by a Board of Control and a Court of Directors, from neither of which can the people obtain any redress, nor even the slightest notice of their petitions and memorials—would suggest the desirableness of fusing these two bodies into one, or of substituting another in their place, presided over by a Secretary of State for the Affairs of India, and having its chief secretary appointed by the Crown, so that it may be amenable to Parliament, as any other board or office; its president being a member of the cabinet, and receiving the same salary as the Chief Secretaries of State in the other departments. That, as regards the members of this council, their qualifications, and the mode of their appointments, your petitioners have no suggestions to offer, beyond that of their having, at least one-half of them, some tangible interest connected with this country; as well as a general knowledge of its condition and requirements, obtained by a personal residence in the country during a specified term of years; the remainder, who have neither of these qualifications, to be recommended by intellectual ability and habits of business.

Employment of the natives by the State.

110. That, in whatever manner the superior branches of the administration, both at home and abroad, may be modified, and modified your petitioners presume they must be, to suit the altered condition of men and things which has taken place in the lapse of the last twenty years, justice to the masses of the people in general, and towards the more intelligent of them in particular, requires that the hitherto prevalent system of governing the country through the exclusive medium of a covenanted civil service should be, if not wholly, at least partially, abandoned, for the following reasons:

111. That young men under this privilege are sent to India fresh from school, and without any knowledge of the world, without habits of business, or even the desire and intention to acquire them. Ignorant of the customs and language of the people, they are placed almost immediately on their arrival in India upon large allowances in the position of assistant collectors and magistrates, and, being on a level with their superiors in office, as component parts of the same exclusive service, they consider their own ease and pleasure as the first advantage to be derived from their new situation, and look upon the zealous and proper discharge of their official functions, in promoting the benefit of the people, with the natural indifference of persons sure of their salaries and immunities by the simple fact of their first appointment from home.

112. That an assistant collector has generally placed under his immediate authority one or more divisions of the collectorate, termed talooks, within which he represents his superior, both as regards the collection of the revenue and the performance of magisterial duties; and, as a matter of unavoidable necessity, he is able to execute his functions solely by the instructions and assistance of the native moonshee, or interpreter, without whom he would be utterly incapable of doing any business at all, as the said moonshee is obliged to advise and guide him on every point and occasion, his own functions being confined to deciding according to the dictates of the moonshee, and putting his signature to the different papers prepared by the latter; while, so well is it understood by the superior authority that the assistant is incapable of self-guidance, that his mistakes, when considered important enough for visitation, are furnished by the collector with the dismissal of the moonshee. The lamentable consequences of this ignorance, incapacity, and negligence, on the part of each assistant collector, to some 150,000 of the native population, in the delay and denial of justice, and in the commission of injustice and oppression, are too numerous for detail by your petitioners, and will be readily apprehended by the wisdom of your Honourable House.

113. That the inefficiency and evils of this system would be most materially remedied, if the educated and trained natives, now acting as proxies in the performance of the functions nominally assigned to these young and incompetent civilians, were placed, under their own personal responsibility, according to their fitness and qualifications, in all the subordinate branches of the revenue and judicial lines; and that very many are sufficiently qualified is proved from the facts, that they already perform the duties of such situations in the revenue department; and that in the judicial department, according to the trust reposed in them, they have been found, to say the least, fully equal to their superior European officers, as evidenced in the public testimony borne to their worth and ability by Sir Erskine Perry, late chief justice of Bombay, in his address at the Elphinstone Institution in the month of February, in the present year, in the following language: "All the civil business in the Company's courts is conducted, generally speaking, by native judges; they are what the French would call judges of the First Instance, and from their decisions appeals lie to the European judges, from whose judgments again an appeal lies to the Sudr Adawlut. It naturally follows that on these latter appeals a close comparison is made between the decision of the native and European functionary; and I learn from the judges of the Sudr Adawlut that it was publicly stated in open court by the two leading members of the Bombay bar, that, with a few distinguished exceptions, the decisions of the native judges were in every respect superior to those of the Europeans."

114. That

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114. That the statistics of judicial business conducted in the Bengal Presidency, and printed for public information, also shew that in the quantity and quality of the work performed the natives are on a par with the Europeans, and, could the statistics of Madras be come at by your petitioners, they feel confident that the case would be the same; but, not being able to obtain access to these documents, they will quote the opinion of Mr. John Shepherd, chairman of the Honourable Court of Directors, delivered in a speech to the students at Haileybury on the 15th of December, last year, as to the general capacity and competency of the natives: "Let me call your attention to the exertions making by the natives of India in the present day. European science and European literature are now studied in India, not only with diligence, but with success. The examinations on those subjects passed by native students show little, if any, inferiority in comparison with Europeans. They have become competitors on our own field of action, and on ground hitherto untrodden by them, and unless you sustain the race with additional zeal and energy, they may pass you. Should this occur—should the natives of India surpass us in intellectual vigour and qualifications, can we hope to remain long in possession of the powers and the privileges we now enjoy? Certainly not."

115. That on the basis of these facts, and of the two-fold admission of Sir Erskine Perry and Mr. John Shepherd, your petitioners would represent that the natives, having already equalled the Europeans in the race of intellectual attainments, deserve, on the admission of the Chairman of the Court of Directors, to be admitted to some portion, at least, of "the powers and privileges" enjoyed by the young men educated at Haileybury; and upon the same admission they desire the abolition of the college of Haileybury as a useless expense, and an unjust incubus on the finances of India: and that in its place the means of better education may be extended to this country, by the establishment of more complete and more useful institutions, including a fuller course of instruction, open to the natives of the soil, as well as to all who seek employment under government, or to qualify themselves for the general pursuits of practical life.

116. That Haileybury either imparts a better education than can, or would, be given in this country, or it does not. If it does not, and it certainly cannot impart the same knowledge of the vernacular languages, the manners and customs of the people, then the money required for its support is mis-spent and thrown away. If it does, then it is manifestly unjust to confine that better education to a small number of privileged persons, while it is invidiously withheld from the many, equally desirous, equally capable, and equally entitled to its participation, as the necessary means to enable them to avail themselves of Section LXXXVII. of the Charter Act, which enacts that no native, or natural-born subject of Her Majesty, residing in British India, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the government of the country. And your petitioners, therefore, pray that, whatever institutions shall be deemed requisite to educate persons for accession to government employ, may be established and maintained in India, so that the money derived from the revenues of the country, by which they are supported, may be spent within it; and that those who contribute to the revenue may, in this instance, enjoy the benefit of its expenditure, together with that advancement in the public service which the chairman of the court has pronounced to be the equitable reward of individual merit and acquirements.

Power of the Supreme Courts injuriously controlled by the acts of the Legislative Council.

117. That your petitioners would feel the present representation to your Honourable House essentially deficient, were they to omit all notice of the inefficient condition in which Her Majesty's supreme courts of judicature have been placed by a recent Act of the legislative council, styled "An Act for the Protection of Judicial Officers;" by which it is enacted that no action for wrong or injury shall lie in the Supreme Court against any person whatsoever exercising a judicial office in the country courts for any judgment, decree, or order of the said courts, nor against any person for any act done by or in virtue of the order of the said courts; and that no judge, magistrate, justice of the peace, collector, or other person actually judicially, shall be liable to be sued in any civil court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided that he at the time in good faith believe himself to have jurisdiction to do the act complained of.

118. That your petitioners have always understood that the establishment of Crown Courts was intended the more effectually to secure the administration of justice by checking the irregularities of frequent occurrence in the courts of the Company—an end that was attained so long as the misdoings of the Company's judges were amenable to the supreme courts of judicature at each Presidency; but this Legislative Act, by depriving those courts of the power entrusted to them by the Crown, operates as an encouragement and reward to malpractices and oppression, which are becoming numerous, especially in Bengal, since it passed into Indian law; the only punishment for which, when the wrong-doing is too flagrantly notorious to be openly tolerated, is the removal of the delinquent to a more lucrative situation.

119. That your petitioners, under these unjust and oppressive circumstances, solicit the protection of your Honourable House in the recision of this Act of protection for judicial delinquents, and the restoration of their original power to the courts of the Crown; as also that, for the better security of wise and impartial administration in the highest appellate court of the Company, one or other of Her Majesty's judges may be president, or chief judge

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judge in the court of Sudr Adawlut, in the room of a Company's servant, as is at present the case in the person of the senior member of council.

120. That your petitioners likewise pray for redress against another enactment of the legislative council, which vests in a single magistrate the powers, formerly shared by two or more, to fine, imprison, and flagellate, at his discretion: as they consider the authority summarily to inflict these punishments is too great to be safely entrusted to one individual, especially as by the Protection Act all redress for injury or wrong inflicted is denied to the sufferer; but even if redress were attainable by instituting a suit in the Supreme Court, as was formerly the case, your Petitioners conceive that a check to the commission of evil is far preferable to the exaction of inadequate retribution after the evil has been perpetrated.

Nominal continuation of the present Charter.

121. That while your Petitioners extremely regret that, owing to want of sufficient time, and to the insufferable difficulty of obtaining access to official documents, they have been unable to exhibit so amply and definitely as they could desire, the vast number of major and minor grievances to which they are subject under the operation of the existing system of government, they earnestly entreat that those which they have thus imperfectly touched upon may meet with the patient consideration of your Honourable House, as well as that the opportunity may be afforded of substantiating the facts they have submitted, before an impartial commission of investigation and inquiry, assembled in India, composed of persons both in and out of public employ, and of Europeans and natives conjointly, chosen partly in Europe and partly in this country, as the sole means by which the real state of these territories, and the true condition of their population, can be elicited; and that, for the accomplishment of this object, the present charter of the East India Company may be annually renewed till the investigation is completed.

Periodical discussion of Indian affairs.

122. That, in conclusion, your Petitioners would respectfully suggest that, whether the government of India be continued in the hands of the East India Company, or otherwise provided for, the new system, whatever it may be, shall be open to alteration and improvement from time to time, as the well-being of the country may require; and that the working of its internal administration may undergo at stated intervals—if practicable triennially, but quinquennially at the latest—public inquiry and discussion in the Imperial Parliament, in order that the people of this vast and distant empire may have more frequent opportunities of representing whatever grievances they seek to have redressed, and that the local governments may be stimulated to the diligent execution of their functions, under the influence of a constant and efficient supervision of their conduct by the higher authorities at home.

And your Petitioners, as in duty bound, shall ever pray.

T. Ramatawmy M (*illegible*), Chairman.
T. Sambasevah Pillay.
C. Rungasawez Naidoo.
&c. &c. &c.

Madras, 10 December 1852.

TO the Honourable the House of Commons of Great Britain and Ireland, in Parliament assembled.

The Petition of the undersigned,

Humbly sheweth,

That your petitioner has observed, with the greatest regret, that oppression is the marke feature of the conduct of the East India Company in India, in reference to the native Princes.

That your petitioner has observed with indignation the harsh conduct of the Board of Directors against the Ex-Rajah of Coorg, in refusing him permission to stop in this country unless on the condition of his being deprived of the grant they allow him, refusing, at the same time, to restore to him 100,000 *l.* of his money invested in the Company's funds, or to pay him the dividends thereon; an injustice rendered the more flagrant by their order to him to apply to the local government respecting this money, when they know the local government will not heed his application.

Your petitioner, therefore, prays your Honourable House to adopt measures by which justice will be done in this case; and your petitioner, as in duty bound, will ever pray, &c.

89, Great Russell-street, 1 March 1853. *John Epps*, M.D.

The

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The Petition of *Rungo Bapojee*, the next Friend, and by Will one of the appointed Guardians of Shahoo Maharaj, an Infant and Minor, who is the sole Male next-of-kin and also the lawfully adopted Son and Heir-at-law of his late Highness Pertaub Shean, Rajah of Sattara, deceased, and also the nearest Male next-of-kin and Heir-at-law of his late Highness Appa Sahib, also Rajah of the said State, deceased,

Showeth unto your honourable House,

That his late Highness Pertaub Shean, above named, was the sixth Rajah of Sattara in descent from Sevajee Chuttraputtee, who founded the empire of the Mahrattas, and transmitted it to his descendents.

And your petitioner further showeth, that in the year 1817 the late Bajee Rao, being then the peishwa or prime minister of that empire, but who had usurped its government, and made the Rajah Pertaub Shean his captive, made war in the name, but contrary to the desire of his master the rajah, against the East India Company, and that, in consequence thereof, and by the advice of the Rajah Pertaub Pertaub Shean, the Honourable M. Elphinstone, then being the British Commissioner at Poonah, duly appointed and acting under the authority of his Excellency Marquis Hastings, Governor-general of India, did, on the 11th day of February 1818, publish a proclamation, addressed by and in the name of the Rajah Pertaub Shean, to the Mahratta nation, warning all its princes, chiefs, nobles, and people to refrain from hostilities against the East India Company, and commanding them to abandon the peishwa, under pain of treason in case of disobedience to him the rajah. The proclamation also stipulated, in the name of the Governor-general of India, that when and so soon as the rajah should be released from the peishwa's captivity, he should be "placed at the head of an independent sovereignty," adequate to his dignity and lineage.

And your petitioner further showeth, that on the 20th day of February 1818, at Ashtee, in India, the Rajah Pertaub Shean, being then detained against his will by the peishwa in the midst of the peishwa's forces, who were actually engaged in battle with the British forces, did leave and abandon the forces of the peishwa, and go over to the British, bringing with him his mother, his two brothers, and others his kindred, and that on arriving amongst the forces last mentioned, the rajah surrendered himself, family, and attendants to Captain Pringle Taylor, now a lieutenant-colonel in Her Majesty's service, and that thereupon, and in consequence of such abandonment, the peishwa and his forces left the field of battle, dispersed, and fled, whereupon the commander of the British forces, the late Lieutenant-general Sir L. Smith, in token of the manner in which the victory of Ashtee was gained, hoisted on the walls of the fort of Sattara the royal standard of the rajah, and caused the same to be saluted by the whole of the British forces.

And your petitioner further showeth, that, in performance of the stipulation aforesaid, a solemn treaty, bearing date the 25th day of September 1819, was made and concluded between the East India Company, in the name of the English Government, of the one part, and the Rajah Pertaub Shean of the other part; by the first article of which treaty the territory constituting the state of Sattara was confirmed and guaranteed "to the Rajah of Sattara, his heirs, and successors, in perpetual sovereignty," under the protection of the Crown of Great Britain, which treaty was duly acknowledged and ratified by the English Government.

And your petitioner showeth, that the Rajah Pertaub Shean was in the year 1836 accused upon certain secret and ex-parte charges by the East India Company, and was in the year 1839 declared by them, they being his accusers and judges, guilty of those charges, without having been heard in his defence; and was thereupon, and in consequence of such declaration, deposed from his sovereignty, forcibly deprived of his property and effects, real and personal, public or political, as well as personal or private, and he himself taken from Sattara, removed under the custody of a military guard to Benares in Bengal, and there kept a prisoner in such custody down to the 14th day of October 1847, when the rajah died, without having obtained any hearing of or reparation for his grievances, notwithstanding his many applications to the East India Company for such hearing and reparation, and notwithstanding his continued denials of the truth of the said accusations, and his offers to prove their falsehood before any British tribunal.

And your Petitioner further showeth, that at the time the Rajah Pertaub Shean was removed captive from Sattara, the East India Company, by Sir James Rivett Carnac, Governor of Bombay, gave the rajah a written guarantee and pledge, dated 30th August 1839, in the words following: "An annual allowance will be assigned from the Sattara revenues for the support and respectability of himself and those members of his family who may choose to accompany him." "Further, that all property belonging to him *bonâ fide* private, and not appertaining to the State, will, on his peaceable submission, not be interfered with." Which written guarantee was three times repeated subsequent to such deposal.

And your petitioner further showeth, that immediately upon the deposal of the Rajah Pertaub Shean, the East India Company, recognising the validity and unbroken obligation of the treaty of 1819, acknowledged and declared his late Highness Appa Sahib, the surviving brother of the deposed rajah, to be his heir and successor in the principality, and did proclaim Appa Sahib to be the Rajah of Sattara accordingly; and did furthermore, in and by a second formal treaty, which was, at the dictation of the East India Company, made and concluded on the 4th day of September 1839, between the Rajah Appa Sahib of the one part and the East India Company of the other part, and was duly acknowledged and ratified, solemnly and for the second time assure and guarantee the state of Sattara to the rajah thereof,

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thereof, his heirs and successors, in perpetual sovereignty, and did also confirm the first treaty of the 25th September 1819.

And your petitioner showeth, that by a proclamation, bearing date the 5th day of September 1839, at Sattara, being the day after the date of the second treaty, the British Resident there, acting under the orders of Sir James Rivett Carnac, Baronet, Governor of Bombay, notified by proclamation to the people of Sattara that the East India Company, having no views of advantage and aggrandizement, had resolved to invest the brother and next in succession to the deposed rajah with the sovereignty of the state, according to the limits fixed by the first treaty, and all persons residing within his territory were required to render to him allegiance as Rajah of Sattara; which proclamation was afterwards duly recognised and approved by the British Government.

And your petitioner further showeth, that the Rajah Appa Sahib departed this life on the 5th day of April 1848, at Sattara, without issue.

And your petitioner further showeth, that the Rajah Pertaub Shean did, according to Hindoo law, adopt as his son the infant Shahoo Maharaj, and by his will, dated 10th October 1845, which was executed and published by him at Benares according to the forms of that law, he declared and directed that Shahoo Maharaj should succeed him in his rights, property (private and public), titles, and in every thing appertaining to his rank, station, and person; and that the rajah did immediately, publicly, and in a formal manner, notify this adoption to the East India Company through Lieutenant-colonel Carpenter, the officer then having the custody of the rajah at Benares; which adoption the East India Company at that time never questioned.

And your petitioner showeth, that Shahoo Maharaj is by birth the lawful and only son and heir of the late Bulwunt Rao, commonly called Balla Sahib Sennaputty, who, in his lifetime, was thus described by Sir Robert Grant, Governor of Bombay, in a minute dated 30th January 1837: "The question is as to Balla Sahib Sennaputty; he is the near relation of the rajah (Pertaub Shean), and supposing that the rajah and the rajah's brother (Appa Sahib) set aside, the proper representative of the family." Balla Sahib was carried away captive from Sattara with the Rajah Pertaub Shean, and expired of grief on the journey to Benares, leaving Shahoo Maharaj, born on that journey, a fatherless infant.

And your petitioner showeth, that, by the Hindoo law universally obtaining, it was absolutely obligatory upon the Rajah Pertaub Shean to adopt in his lifetime a son and heir according to that law; and that such obligation was not only a legal, but also of a highly solemn and religious character, and binding upon the conscience of Pertaub Shean, and not to be evaded or dispensed with; and that the son so adopted according to Hindoo law acquires immediately, upon and by means of such adoption, the style, character, and capacity of a lawful son of the body, as well as of heir, of the prince or person so adopting him.

And your petitioner further showeth, that, according to the laws of nations, being part and parcel of the municipal law of the British realm, and also according to the laws and customs of the Mahratta state and the other native states of India, and likewise according to the law and practice of the British Indian dominions, the right of a rajah of any Mahratta or Hindoo principality to give succession to the same by means of male adoption is, and hath ever been, an indisputable and immemorial right, and your petitioner humbly submits that the same cannot now be lawfully questioned by the East India Company, or by any person or persons whomsoever.

And your petitioner further showeth, that, upon the death of the Rajah Appa Sahib, the sovereignty of the state of Sattara and the public property, which by express letter and spirit of both treaties above mentioned descended of right to the next heir of the deceased rajah, were claimed and seized by the East India Company upon the pretence of a failure of male heirs to both rajahs.

And your petitioner further showeth, that the infant Shahoo Maharaj, being not only the adopted son of the Rajah Pertaub Shean, but also his male next of kin, and also the sole male next of kin and heir of the Rajah Appa Sahib, even if the act of adoption had not taken place, he would according to law and to the second treaty have equally inherited upon the death of the Rajah Appa Sahib in such his character of male heir and next of kin, and that therefore, both by adoption and by blood, Shahoo Maharaj is now the undoubted lawful heir of the Rajah Pertaub Shean, as also of the Rajah Appa Sahib.

And your petitioner showeth, that Shahoo Maharaj also claims to be entitled as heir to the private property and effects, real as well as personal, of the Rajah Pertaub Shean, and which were taken possession of by the East India Company on the rajah's captivity and removal to Benares in September 1839, and which were guaranteed to him by the East India Company expressly in addition to the annual allowance settled upon him at that time.

But your petitioner showeth, that the East India Company have hitherto wholly refused to accede to his applications made in this behalf, and have hitherto retained, and still do retain, possession of the state of Sattara and of the public and private property and effects belonging to Shahoo Maharaj, and claim in the name of the British nation the right to retain and appropriate the same, and that they have retained and appropriated the same accordingly; and that in particular, by a proclamation, dated the 12th day of May 1849, and published in India, the whole of the state of Sattara hath been, and is, in violation of the above treaties, and in confiscation of the rights of Shahoo Maharaj, annexed and declared to be annexed unto the Indian territories; and that the East India Company, in order to colour such unlawful appropriation and spoliation, pretend that the succession of the two rajahs, Pertaub Shean and Appa Sahib has lapsed by failure of heirs, whereas your petitioner has shown, and does show, and is ready to verify the contrary of such pretence to be the truth; first, by the written testimony above cited of Sir Robert Grant, Governor

Governor of Bombay; secondly, by the evidence of H. B. E. Frere, esq., the Company's Resident at Sattara, affirming that no such failure hath occurred, the Resident having declared, in his letter to the Bombay Government, dated 23d September 1848, "that there were numerous claimants to the throne [of Sattara] who would be able to establish a very good *primâ facie* case, in any court of justice in India, to be the rajah's heir by blood as against the British Government;" and having further written as follow: "I would take this opportunity of respectfully, but very earnestly, pressing on Government the risk of pronouncing any final decision, whether in favour of one adoption against another, or of the British Government against both, and against all other claimants, without allowing every party whose claim may be negatived the fullest possible opportunity, not only of himself stating the grounds of his own claim, but of answering all objections."

And your petitioner further showeth, that he hath repeatedly presented to the East India Company his complaints touching the grievances and wrongs done to Shahoo Maharaj, and sought reparation for the same, but that all his complaints have been unheeded, or rejected without examination or inquiry; and that, to add to these grievances, and also with the view of compelling Shahoo Maharaj to renounce and abandon the prosecution of his claims in that behalf, the East India Company did for several years deny to him and to the widow or ranee of the Rajah Pertaub Shean, both detained prisoners at Benares (where the infant has been kept since his birth), the means of subsistence for himself and the said ranee, and for their retainers, until such time as they should agree to such written renunciation or abandonment; and as evidence of this conduct, your petitioner humbly begs to refer to the following papers: No. 669 of 1850, laid before your Honourable House, and ordered to be printed on the 5th day of August of that year, that is to say, a despatch bearing date "Fort William, Foreign Department, 6th April 1850, signed Dalhousie, J. H. Littler, F. Currie, J. Lowis," and addressed "to the Honourable the Court of Directors of the East India Company," and a despatch in reply thereto, bearing date, "Foreign Department, India House, 10th July (No. 19), 1850," signed "J. Shepherd, J. W. Hogg, &c. &c." and addressed to "our Governor-general of India in Council."

And your petitioner further showeth, that, in furtherance of their purpose of forcibly compelling this infant to agree to such renunciation and abandonment, the East India Company have, by withholding from the ranee for about four years the means of subsistence for herself and her household, procured from her some document whereby she hath (as they allege) debarred herself of her right to concur with your petitioner in his present petition; but your petitioner is advised and submits that, inasmuch as the ranee hath no jurisdiction over Shahoo Maharaj, nor power to sign away his rights, he being an infant and a minor, any such document, even if the same be genuine or valid as against the ranee, and even if not extorted from her under duress and starvation, must be and is, as against Shahoo Maharaj, wholly inoperative and void.

And your petitioner lastly showeth, that the amount of the annual revenues of the state of Sattara, so appropriated by the East India Company, is officially admitted now to be more than 142,000 *l.* and prospectively to be from 400,000 *l.* to 500,000 *l.* per annum, and that the amount in value of the public property and effects belonging or incident to the state exclusive of the revenues, is more than 45,000 *l.*, and the amount in value of the private or personal property and effects appropriated exceeds 300,000 *l.* Further, that of the separate income derivable from real property, bought and left by the Rajah Pertaub Shean, and now appropriated by the East India Company, a portion is derived from lands situated in the territories of the East India Company, and is returned by Viscount Falkland, Governor of Bombay, as of the annual value of rupees 25,529, or 2,552 *l.*

That, by reason of Shahoo Maharaj being treated at Benares as a political prisoner, although denied to be a rajah either by birth or adoption, the local courts of the East India Company are prohibited from entertaining the matter of his complaint in the premises, while by reason of the forcible detention of his person by the same power which refuses to hear him, at the very same time that it degrades and beggars him, he is prevented from placing himself within the jurisdiction of Her Majesty's Supreme Courts in India, and seeking justice from them.

Your petitioner has, therefore, no possible hope nor human means of obtaining inquiry and redress for Shahoo Maharaj, except from the justice of your Honourable House, and from the supremacy and impartiality of British law.

And therefore your petitioner humbly prays your Honourable House will be pleased either to direct the restoration of Shahoo Maharaj to his rights and property in the premises, or else to refer the matter of this petition, and the case and circumstances therein set forth, to the consideration of the Committee of your Honourable House now appointed to review the conduct of the East India Company in India, with instructions to take all evidence which shall be deemed requisite, and to require the production of all proceedings, correspondence, and documents in the possession, or power, or under the control of the East India Company, or their servants, relating to the premises, or of true and exact copies of such particulars respectively, and to report thereon to your Honourable House.

And your petitioner will ever pray.

Rungo Bapojee,
Vakeel of his Highness Shahoo Maharaj, Rajah Sattara,
now at Benares.

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The humble PETITION of the Members of the *Bombay* Association, and other Native Inhabitants of the Presidency of *Bombay*,

Sheweth,

THAT the nature, constitution, and practical working of the Indian Government being now under the consideration of Parliament, your petitioners beg respectfully to lay before your honourable House the views which your petitioners have formed with respect to the existing system of government, and some of the improvements of which it is susceptible.

2. Your petitioners are fully sensible of, and are glad to acknowledge, the many blessings they enjoy under the British rule; but these they attribute to the British character, rather than to the plan of government which it has hitherto been deemed expedient to provide for India; and which, being the result of circumstances, and not of design, is but little suited to the present state of the country, and to the fair demands of the people of India.

3. Even the 3d & 4th Will. IV., c. 85, under which India is now governed, intituled, "An Act for effecting an Arrangement with the East India Company, and for the better Government of His Majesty's Indian Territories, till the 30th day of April 1854," was confessedly a concession of principles, in order thereby to effect the final settlement of complicated questions of property, and to obtain the relinquishment by the East India Company of certain exclusive rights of trading secured by royal charter; and the correspondence between the Board of Control and the Directors of the East India Company, contained in the 17th volume of the "Papers" printed in 1833 by order of the Court of Directors), "respecting the negotiation with his Majesty's Ministers on the subject of the East India Company's charter," clearly establishes that it was fully understood at that time, on both sides, that the nature of the arrangements for the future government of India was to remain an open question.

4. The formation, therefore, of a good system of government for the millions of peaceful and loyal British-Indian subjects being now, for the first time, freed from all antecedent difficulties connected with the acquisitions, rights, and position of the East India Company, and resolving itself, as it now does, simply into a question, How can India best be governed? your petitioners believe that it will be found easy by your honourable House to devise a constitution for India which, while it shall contain all the good elements of the existing system, shall be less cumbersome, less exclusive, less secret, more directly responsible, and infinitely more efficient and more acceptable to the governed.

5. Your petitioners need not point out to your honourable House the nature of the home Government under the present arrangement; but whilst in theory, and doubtless to a very great extent in practice, it consists of a minister of the Crown, aided by a Court of 24 persons, many, though not all, of whom have passed through an Indian career, yet, according to very high authority, the views of the Court of Directors can be put aside by the minister at pleasure, and the former be forced, in their own names, and as their own act, to issue orders to the local government to which they are entirely opposed.

6. The right honourable the Earl of Ellenborough, in the evidence recently given by him before a committee appointed by the late Parliament to inquire into East Indian affairs, is represented to have stated that he did not know by whom India was in general governed; that it seemed to be so, in general, by a parcel of clever clerks; that when he (Lord Ellenborough) was chairman he governed the country himself, and on his own responsibility; and that he did not think of taking counsel with his brother ministers, or advising with any member of the Court of Directors as to the course to be pursued. The following question was put to Mr. Courtenay, Secretary to the Board of Control from 1812 to 1830, by the Select Committee appointed by Parliament in 1832:—

"Has the existence of these co-ordinate authorities, in their several relations to each other, tended, in your opinion, to promote the despatch of public business, or otherwise?"

His answer was, "To retard it in a most extraordinary degree; and, in retarding it, to make the whole more unsatisfactory. The length of time that elapses between an occurrence in India which is the subject of a despatch, and the receipt in India of the opinions of the home authorities thereupon, is necessarily very considerable, under any circumstances. Some not inconsiderable time must be taken up in England in preparing an answer to the despatches; but the time is increased in an immense proportion by the necessity of every despatch going through the two establishments being, in many cases, the subject of lengthened controversy between them."

The inutility and inefficiency of two such clashing authorities as the Court of Directors and the Board of Control are thus described by Mill, in his History of India:—

"If the whole power of Government is necessary for the Board of Control, what use is there for another governing body, without powers? This is to have two governing bodies, the one real, the other only in show. Of this species of duplication the effect is to lessen the chances for good government, increase the chances for bad; to weaken all the motives for application, honesty, and zeal in the body vested with power; and to furnish it with an ample screen, behind which its love of ease, power, lucre, vengeance, may be gratified more safely at the expense of its trust."

7. It

7. It is, moreover, commonly asserted and believed, that some of the most important events which have occurred during the existing Government of India, attended with an enormous drain on the revenues of the country, have been ordered by the Board of Control, in opposition to the express wishes of the Court of Directors.

8. Your petitioners, therefore, submit that an Indian Council, not placed under a minister of the Crown, but of which the latter should form the president, and be directly responsible to Parliament, would form a more simple, efficient, and responsible home Government than that now existing.

9. Whether the members of this Board should consist of 12 or 24 persons, by what title they should be designated, how many of them should be nominated by the Crown, and how many elected, and by whom elected; how they should be remunerated, and how and when displaced,—are details on which it is quite unnecessary for your petitioners to offer an opinion to your honourable House beyond this, that your petitioners would suggest that the remuneration attached to a seat at the Board should be such as to secure the services of the most able men of the day; and that, with the exception of the minister of the Crown, a previous residence in India should be an indispensable qualification for office.

10. Your petitioners would further suggest, that the elective body should be composed of persons having a real and substantial interest in the good government of the country.

11. With reference to the local governments, your petitioners conceive that they are conducted, under the existing system, with a secresy which, however justifiable and necessary in the early days of the British rule, is not at all called for in the present day; and, on the contrary, is most injurious to the character and best interests of the Government itself, and most unsatisfactory to the governed.

12. Your petitioners would also point out, that the efficiency of the local Governments of Madras and Bombay, under the existing law, is very much impaired, and the despatch of public business considerably retarded, by the necessity for continual reference to the supreme Goverment at Calcutta for its sanction for the most trifling matters; and changes recommended by the local Government, and supported by the authority of its experience, are frequently rejected by the supreme power, with no local knowledge to guide its decisions.

13. That this would be the effect of centralising all legislative and so much executive power in the Governor-general of India in Council was foreseen and expressed by the East India Company in a petition presented by them to your honourable House in the course of the discussions on the present Charter Act. Their words are as follows:—"Your petitioners further humbly represent that the said Bill proposes to effect a serious change in the constitution of the local Governments in India, which, in the judgment of your petitioners, will, if adopted, place an excessive power in the hands of the Governor-general, and prejudicially diminish the power and influence of the Governments of Madras and Bombay." The experience of the last 18 years has completely verified the truth of the above prediction.

14. Your petitioners submit that the cost of administration in India is unnecessarily great; and considerable reductions might be made, without the slightest detriment or injury to any one save the patrons or expectants of office, by abolishing sinecure offices, and retrenching the exorbitant salaries of many highly paid offices, whose duties are so trifling, or involve comparatively so little labour or responsibility, that they might with advantage be amalgamated with other offices, or remunerated in a manner commensurate with the nature of the duties to be performed.

15. Your petitioners respectfully submit that the time has arrived when the natives of India are entitled to a much larger share than they have hitherto had in the administration of the affairs of their country, and that the councils of the local governments should, in matters of general policy and legislation, be opened, so as to admit of respectable and intelligent natives taking a part in the discussion of matters of general interest to the country, as suggested by Lords Ellenborough, Elphinstone, and others.

16. It is often alleged that the natives are incompetent to fill high situations. Similar objections were raised by the Court of Directors in 1832, to the appointment of natives to the offices of justice of the peace and grand juror, when the Bill relative to such appointments was proposed to be submitted to Parliament by the Right Honourable Charles Grant, M.P., then President to the Board of Control, and now Lord Glenelg. That eminent statesman, in his correspondence with the chairman and deputy-chairman of the East India Company on the above subject, bears the following testimony to the qualifications of natives for service under Government, in a letter dated 6th March 1832:—

"In the pursuits of private life, as well as in those branches of the public service in which they have hitherto been permitted to engage, the natives of India have evinced no deficiency either in habits of application to business, or in the skill and acuteness required for its successful prosecution; nor can it be maintained that they are insensible to that stimulus to exertion which arises from the hope of honourable distinction. Those natives who are entrusted with the administration of justice, and the collection of the revenue in the interior,

Appendix, No. 7. qualify themselves for those duties by studying the regulations of the government under which they are to act. Why then should we anticipate a different result in the case now under consideration?"

The result of the appointment of natives to the distinction of justices of the peace and grand jurors, your petitioners believe they may safely assert, has fully realised the expectations which seem to have been formed regarding the measure by the distinguished statesman from whom it emanated. They have honourably filled their offices, and performed their duties equally with their European colleagues, with much advantage to the public interests concerned. Sir Erskine Perry, also, the chief justice of Bombay, when presiding in his capacity of President of the Board of Education at a public meeting held in the town-hall of Bombay on the 9th February 1852, expressed himself as follows, in respect to the administration of justice as exercised by native functionaries in the interior of this presidency:—

"All the civil business in the company's courts is in the first stage conducted, speaking generally, by native judges; they are what the French would call judges of the first instance; and from their decisions appeals lie to European judges, from whose judgments again an appeal lies to the Sudder Adawlut. It naturally follows that on these latter appeals a close comparison is made between the decisions of the native and European functionary: now I learn from the judges of the Sudder Adawlut that it was publicly stated in open court, by two leading members of the Bombay bar, that, with a few distinguished exceptions, the decisions of the native judges were in every respect superior to those of the Europeans."

The above testimony of distinguished individuals, to which might be added many others of a similar character, will, your petitioners hope, remove any impression which may exist as to the sometimes alleged unfitness of natives for situations of trust and responsibility in the service of the State. Experience hitherto has shown a result directly opposed to such impressions; and in the present advanced state of the native mind, compared with what it was when the last discussions on the charter of the East India Company took place 20 years ago, it is not too much to presume, judging from the past, that the further advancement of natives to more important offices will be followed by equally favourable results.

A native judge in the Small Cause Court at Calcutta, and a native magistrate in the same city, are admitted on all hands to conduct their duties most satisfactorily. But no such appointments have been made in this presidency, nor, as your petitioners believe, in Madras.

17. Your petitioners would further observe that the 87th section of the 4th and 5th Will. 4, c. 85, which declares that no native of India, or natural-born subject therein, shall be disqualified from office by reason only of religion, place of birth, descent, or colour, has hitherto remained nearly a dead letter; and it is for your honourable House to make due provision for the more extensive employment of natives of India suitably qualified for the government service, and for their elevation to the highest offices of the State.

18. With respect to the administration of the government itself, it is perhaps unnecessary to remind your Honourable House that every civil post, of any value or importance, throughout the territories, is filled by a privileged and exclusive service called the Covenanted Civil Service of the East India Company.

19. Your petitioners admit that the 103rd and five following sections of the 4th and 5th Will. 4, c. 85, contain the outline of provisions adapted to secure an honourable, and, on the whole, efficient body of servants for very many offices under the Indian Government; but, although the students of Haileybury College are, by virtue of the above clauses, to undergo examination, the incompetent as well as the competent have equally the parliamentary right "to supply the vacancies in the civil establishments in India."

20. It must be apparent to your Honourable House that the education given at Haileybury College does not and cannot qualify a young man to administer the law, civil and criminal, Hindoo and Mahomedan, to a whole district; and yet no provisions exist, either in England or in India, for carrying on the education of the civil servants intended for judicial employment, nor are they required or expected to prepare themselves for the judicial office by any previous study.

21. Once admitted to the service, they rise by seniority, whether industrious or idle, competent or incompetent; and they are transferred from one department to another without due consideration of their aptitude or previous experience; the judicial sends its members to the revenue department, and the revenue to the judicial. Unlike the officers of the army, they are practically exempt, except in cases of extreme delinquency, from all fear of punishment for incompetence or misconduct. Regarded as the privileged governors of the country, and claiming all the important offices under Government as of right, the gravest errors are only visited with expostulation, or, at most, with a removal from one office to another, whilst the local governments are debarred from availing themselves of European and native talent at hand, simply because the possessor is not one of the privileged order.

22. So long as the present exclusive system of employ shall continue to exist, it is manifest that it will be impossible to secure the greatest efficiency in any one department of the Government, whilst the courts of justice will, as a general rule, be handed over, as at present, to those who have shown themselves the least qualified to collect the revenue of the State. The result of placing judicial power in the hands of those not trained, or by nature qualified

qualified to exercise it, is that, in order as far as possible to prevent injustice, it is necessary to allow a number of appeals and reviews; and thus, under the system of Mofussil judicature, a final decision in civil suits is often not obtained under ten years, and rarely before three years. Then the litigation in the company's courts, where a large amount is in dispute, is of the most expensive character, owing to the heavy stamps to which all law proceedings in the Mofussil are subject; and thus, from delay, expense, and inefficient judges, the administration of the law in the company's courts is altogether of a most unsatisfactory nature; and no department of the Indian Government calls more loudly for reform.

23. Your petitioners would respectfully suggest that, if a Parliamentary service, having a right to exclusive civil employ, is to be retained for India, its sphere of office should be confined to the discharge of strictly revenue, financial, and political duties; and that the system of seniority and right of promotion, involving, as now in operation, frequent and most inconvenient transfers of officers from one department to another, should be abolished, and that public merit should be the only avowed principle of promotion; and further, that a high standard of qualification should be exacted from all who are appointed to judicial offices in India.

24. Your petitioners would, moreover, add, that the Indian civil service now costs the Government three millions and a half of pounds sterling, each officer receiving on an average 1,750 *l.* per annum, from youths just arrived in India to the highest grade. These salaries are adequate to command the very highest political, financial, and judicial talent, and impose on the Government the moral obligation of providing the best servants for the Indian Government.

25. But your petitioners submit that the salaries paid to the Indian civil servants are excessive. Your petitioners see it stated before the Select Committee of the House of Commons that the public service is most ably conducted by members of the native uncovenanted branch, at a mere fraction of the charge of covenanted servants; that a much greater number of natives ought to be employed than at present, the general conduct of native officials being most exemplary.

26. There are numerous offices under the Government, the post-office for example, in which the head of the department must necessarily be to a great extent, from want of training for the discharge of his duties, and dependent, therefore, on his subordinates. They are held for some transient period, so that there is little inducement for the most conscientious men to study the duties of the office. Within the last ten years there have been eight different postmasters at this presidency, drawing between 2,000 *l.* and 3,000 *l.* a year, while the work has been chiefly performed by a deputy, receiving 700 *l.* per annum; and the post-office, as a system, is believed to be infinitely below what it would have been had a qualified person been sent out from England to take permanent charge of it.

27. Your petitioners, whilst on this subject, cannot forbear calling the attention of your Honourable House to the opinions of the East India Company on the best means of providing good servants for the Indian Government, as expressed in the petition presented by them to Parliament in 1833, and which, your petitioners submit, deserve great consideration:—

"Throughout the correspondence which has passed with his Majesty's ministers, your petitioners have declared upon this point, that the arrangement which shall not effectually provide the means of giving Government servants to the Indian empire, is that which shall assuredly meet the views of the court, whatever its effects may be on their patronage; and it is because your petitioners are deliberately convinced that efficiency will be more likely to be obtained in a general system of education, brought to the standard of a high test of examination, than in any exclusive system, that the court confidently ask your Honourable House to abolish the college."

28. Your petitioners now beg to represent to your Honourable House the extreme deficiency of the means of internal communication in this presidency; that this want discourages increase of production, by shutting out the producers from any remunerative market, and prevents, in periods of distress, the scarcity of one district being mitigated by the plenty in another. Instances are recorded wherein the supplies designed to relieve famine in a district were, in the course of transit, consumed before they reached their destination. Were this obstruction to the industry and resources of the country taken off, by the construction of railways, roads, piers, wharves, and other useful works, large tracts of land now lying waste, more particularly in the cotton districts, would be put under cultivation, and the supply of this most important article of export to Great Britain would be increased at least tenfold. Your petitioners beg leave to quote, in corroboration, a passage from a memorial addressed by the leading merchants and bankers of Bombay to the present Governor-General of India, in 1850:

"So miserably inadequate are the means of communication in the interior, that many valuable articles of produce are, for want of carriage and a market, often left to perish in the field; their way to this port is enormously enhanced, to the extent, sometimes, of 200 per cent. Considerable quantities never reach their destination at all, and the quality of the remainder is almost universally deteriorated."

Several able letters, addressed to the editor of the London "Times," in November and December 1850, and again in September 1851, by a distinguished engineer officer of the Bombay army, clearly point out the deficiency of the present means of communication in the

Appendix, No. 7. the interior, and particularly in Gujarat, and to which your petitioners would solicit the earnest consideration of your Honourable House.

29. Your petitioners suggest that five per cent. of the amount of land revenue should be annually expended in the district whence it is levied, in making roads, bridges, tanks, and other works of similar utility. All such expenditure would be speedily repaid in the increased revenue arising from the impulse given to production, by opening up new markets for the sale of produce. Your petitioners observe that this most important recommendation has been made repeatedly to the local and supreme Governments here, by some of its most eminent and experienced officers, but they have learnt with deep regret that it has been as frequently set aside by the home authorities.

30. Your petitioners would further observe, that the Government grant of 12,500*l.* for educational purposes is quite inadequate to the wants of this presidency, with its population of upwards of 10 millions, and yielding a net land revenue of 1,028,285*l.* Your petitioners beg to draw the special attention of your honourable House to this subject, and believe that all the reforms and all the improvements sought for, or in the power of your honourable House to make, are but secondary in importance compared with the necessity of introducing a complete system of education for the masses of the people. That such expenditure would eventually increase the revenues of the country, both by teaching the people new and better modes of production, as well as habits of economy and prudence, cannot be doubted; and your petitioners would suggest the propriety of establishing in each presidency an university, after Mr. Cameron's plan, for the purpose of qualifying persons to practice in the various professions, and rendering them eligible for Government employment.

31. Your petitioners therefore humbly pray your Honourable House to embody in any measure of legislation which may come before you for the future government of India, the principles hereinbefore set forth; and that your Honourable House will not rest content, but adjourn the final settlement of the plan of the Indian Government until all available information from trustworthy, competent, and disinterested sources, has been laid before you; and your petitioners venture to hope that your Honourable House will limit the period of existence for any future Government of India to 10 years, in order that the interests of so many millions of British subjects may be more frequently brought under the consideration of Parliament.

And your petitioners, as in duty bound, will ever pray.

(signed) *Manackjee Jamasjee.*
Nesserwanjee Manockjee.
Bomaujee Jeejeebhoy.
&c. &c. &c.

Bombay, 28 October 1852.

The humble Petition of the undersigned British and other Christian Inhabitants of *Calcutta* and the neighbouring Parts, in the Lower Provinces of *Bengal*,

Humbly sheweth,

1. That your petitioners feel themselves called upon by the approaching period for the renewal of arrangements for the future government of India, to convey to your Honourable House some expression of their opinion with reference to those arrangements.

Objects of the last Charter Act not carried out.

That your petitioners advert with satisfaction to the provisions of the last Charter Act, especially when read in connexion with the historical evidence of the intentions and objects of Parliament. That, reading the Charter Act by this light, a distinction palpably arises between those objects which were completely established by the Act of Parliament, such, for example, as the abolition of the trading powers of the East India Company, and those which for any reason were left to the good faith of the Government to realise. With respect to the latter class, your petitioners beg to express very great disappointment; for although the Government was furnished by the Charter Act with new powers and machinery to accomplish what then appeared, and whatever in future might appear desirable, many of the intentions of Parliament remain neglected. Thus, for example, no means have been taken to form for India a properly qualified body of judges, or to open the judicial service to qualified persons, though the want was demonstrated by a large body of evidence before Committees of the Houses of Parliament. The criminal laws of the East India Company's courts, in their application to natives, were condemned 15 years ago by the Indian Law Commission, which was appointed, under a direction in the Charter Act, to inquire into the state of the laws; but the criminal laws remain for the most part unchanged. In a spirit generally deemed as impolitic as illiberal, the Government has repeatedly proposed to bring British people under these laws, though so declared unjust towards the natives who were accustomed to them. The want in the East India Company's courts of laws adapted to the requirements of trade and commerce is well known; the English law could furnish an equitable commercial code, but English law is excluded from these courts, and no other rational system has been enjoined upon or adopted by them, although the Charter Act expressly

expressly directs the preparation of laws adapted to all classes of the public. The great want in the courts of the East India Company of a body of laws, both civil and criminal, for the East Indians, to whom as Christians the native laws were not justly applicable, was specially brought under the consideration of Parliament, and the peculiar hardship of the case drew forth the sympathy of several eminent men. Practical relief has been proposed to Government by the Indian Law Commission, under the name of a Lex Loci Act, but relief has not been given. Parliament abolished all disabilities for office or public employment, by reason of race, creed, colour, or origin; but distinctions are maintained in administration between previously excluded classes and the privileged classes, which place the former in a state of official and social degradation. The state of the police is as bad as before the last Charter Act, and it is no protection to the people. Other instances might be given, and hence your petitioners express their disappointment, and have again to bring these subjects, together with others, under the consideration of Parliament.

State of the Law and Courts; Subject divided.

2. That your petitioners first beg to bring under the consideration of your Honourable House the state of the law, and in connexion with this the state of the courts of justice, as respects both their executive and judicial functions. On a moment's reflection, the close connexion of these subjects is apparent. If a bad state of the law be supposed, it is impossible to conclude otherwise than that ill effects must result, though the judiciary body were meritorious; and equally clear is it that good laws must in a degree fail, if the judges are deficient in knowledge, skill, honesty, or other proper judiciary qualifications. And good laws and good judges together must always depend in a considerable degree for practical success on the character of the executive officers and establishments. The necessity, therefore, is apparent of keeping all these subjects in view together, or as parts of one whole.

Law of the Supreme Court.

With respect to the law, it will be necessary to distinguish what it is in Calcutta and the Supreme Court, from what it is in the country beyond and courts of the East India Company. In the Supreme Court three different codes of law are established: English law for British subjects, and Hindoo and Mahometan law for Hindoos and Mahometans on civil matters, but English criminal law for all classes, natives, British and foreigners, who are inhabitants of Calcutta; and for nearly 80 years these different codes have been administered by this one court generally with satisfaction to these different races, thereby establishing the important fact, that judges practically qualified in English law become qualified for the native system of law to which they are originally strangers, and presenting, as will hereafter appear, a striking contrast to the East India Company's judges. And although it may be admitted that the Supreme Court has an extent of jurisdiction geographically inconvenient, the remark has no application to the law of the court, but the blame rests with the Government, which has done nothing towards supplying other courts, or making the East India Company's courts competent to take part of the jurisdiction of the Supreme Court, as respects British subjects.

Law of the East India Company's Courts.

That the law in the East India Company's courts is on matters of succession, inheritance, marriage, caste, and religious usages and institutions, the Hindoo and Mahometan law for Hindoos and Mahometans respectively, with the addition of a body of Regulations and Acts chiefly relating to procedure and revenue, and in which is prescribed this general rule as to all other matters, namely, that the courts shall decide according to justice, equity, and good conscience in cases not provided for by the said Regulations and Acts; but the Regulation which prescribes this rule is not accompanied by a code of equity, nor any maxims or principles, but has left it to the courts to work out a system of equitable jurisprudence, which after 60 years they have not done or begun to do, and to the present day the supplementary provision for equity remains a barren verbal rule, which may confidently be described as having no effect beyond that of giving the judges of all degrees and castes —Hindoos, Mahometans, and English—a discretion which they are incapable of wisely exercising, and thereby rendering all rights, and the result of all litigation in these courts, extremely uncertain. The cases to which this remark applies are all cases on contracts of all kinds, including sale, hiring, partnership, and, in short, all business arising out of commerce and dealing in which British people and interests are concerned. That the laws above mentioned are the only civil laws administered in the courts of the East India Company; and thus it clearly appears that the civil law administered in those courts is most defective.

Procedure of the East India Company's Courts.

That the law of procedure is in as unsatisfactory a state as the other parts of the law. From repeated and numberless alterations, and the peculiar form of many of them, the code itself is obscure, confused, and of uncertain meaning; that by practice and construction it has acquired a highly technical character, as is evident from the printed decisions of the courts and the very large proportion of cases on questions of form. In the courts of every degree suits of all kinds and all amounts, except where the revenue is directly or indirectly concerned, are conducted by means of written pleadings, consisting of a plaint, answer,

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answer, replication, and rejoinder, and no security is taken for truth in pleading. At each step time is necessarily given to the adverse party, and a decision may be followed by two, and in some cases by three, appeals. The procedure, therefore, is slow and dilatory. That your petitioners, having now experience of both systems, can confidently state that the reform procedure of English law is more simple and expeditious, and more conducive, by its greater variety of resources, to the ends of substantive justice.

That the appeals (already alluded to) are permitted to an extent unparalleled in any other system of law, on the ground avowedly of distrust of the courts. That, formerly, the petty courts of moonsiffs and sudder ameens were partially excepted from this system; but by a recent Act it has been extended to them, and consequently the petty dealer who may have to sue a poor ryot for 5*s.* must not only sue by a written petition or plaint, but may have his suit dismissed after two months for want of a replication, and a decision either for plaintiff or defendant may be followed by two appeals; and thus it appears that the East India Company has no courts analogous to the Court of Small Causes in Calcutta or to the County Courts in England, with a partial exception as above, where the revenue is supposed to be concerned.

That evidence in all the courts is required to be taken in writing, which leads to the practice of its being taken by a native clerk often out of hearing of the judge, who may be engaged in other business, and decides on the evidence thus taken on reading it, or its being read to him; but the officers are notorious for tampering with the evidence, and those who are personally acquainted with the country very generally complain of abuses, and condemn this mode of taking evidence.

That, in connexion with this subject, the legal agency established in the courts, should be mentioned, as aggravating all the faults of the system. It is carried on by means of persons called, according to their different branches of the business, mooktears (managers), vakeels (attornies), and pleaders; a body of men generally (in the inferior courts) belonging to the dregs of native society, who are notorious for the most wicked practices which can be used in their business, a pest to the courts, and a cause of the corruption of the people to whom they minister.

Stamp Duties.

That to the evils already enumerated your petitioners have to add a heavy taxation on all law proceedings, by means of the obligation of using stamped paper, which rises in a series of duties in all regular actions from 2*s.* to 200*l.* on plaints or petitions alone, and admits of no exceptions even for the smallest debt or demand, and waylays the suitors at every subsequent step, and obliges the judge to stop his speech or that of his pleader with the question, "Where is your stamped paper?" and will not permit the reception of the evidence of a witness until after an application on stamped paper of 2*s.* or 4*s.* each, and, if the proof consists of a series of letters, imposes on each letter a stamp of 2*s.*, and an error in a stamp is often irremediable, and the constant cause of nonsuits and other failures of justice. That the stamp duties are still more vexatious and impolitic in criminal proceedings. That your petitioners represent these details to show that the system is not less oppressive than that of the taxes on law abolished in England at the united call of justice, humanity, and all general reasons.

Courts of the East India Company's Native Judges.

As respects the courts of the East India Company, the civil courts, having an original jurisdiction, differ so widely from those having only an appellate jurisdiction, that it is necessary to premise this distinction between them.

That before the last Charter Act the natives had been entirely removed from civil judicature (except as to debts of 5*l.*) on account of their universal corruption. Since the last Charter Act they have been restored to, and are almost in exclusive possession of, all original jurisdiction. The judges having original jurisdiction are of three grades: (1.) Moonsiffs (dispensers of justice); (2.) Sudder Ameens (chief commissioners); and (3.) Principal Sudder Ameens. The jurisdiction of the first class extending to 30*l.*, of the second to 100*l.*, and of the third to all amounts beyond; and, in amount, many suits are not surpassed in the courts of equity or law in Westminster Hall. The moonsiffs, sudder ameens, and principal sudder ameens in the lower provinces, consist of about 320 persons, of whom there are, at present, not more than one-fifteenth of Christian denomination. That the natives first appointed to those offices on the change of systsm were, for the most part, the officers (amlahs) of the existing courts—a body of persons notorious for corruption; and, their salary being small, the practice of corruption for several years, if not to the present time, prevailed, probably to nearly an equal extent, though in a different form, as in Mahometan times, when the salary was a mere honorarium or retaining fee, and the real reward was in the wages of corruption. It is notorious that, after holding office for a few years, large estates or fortunes were amassed by many of them, and others lived in the display of affluence.

That the salaries of these classes, though slightly raised, are in no fair proportion to the importance of their offices and jurisdiction. The moonsiffs receive 120*l.*, and a few 180*l.* per annum, the sudder ameens 250*l.* per annum, and the principal sudder ameens 480*l.*, and a few after long service 700*l.* per annum. Such salaries indicate a low appreciation on the part of the Government of the judicial office, as well as of the personal status of the officials themselves; and in fact they do generally belong to an inferior grade of native society,

society, and are without any proper legal knowledge or professional training, for it is impossible to regard as such the little knowledge requisite to pass an examination.

That your petitioners are fully sensible of the difficulty of establishing charges of corruption, and they make them with reluctance; but the proof, recognition, or acknowledgment of the fact must precede an attempt to remove or correct the evil. As some corroboration, your petitioners beg to state that corrupt practices were charged against these courts in a memorial to the Bengal government within the last 18 months, which was signed by a very respectable body of British and other Christian inhabitants of different parts of the Lower Provinces, including some Calcutta firms largely interested in silk and indigo, and other Mofussil concerns; that the means taken by the Government to ascertain the truth of the complaint were, as your petitioners are informed, the requisition of a report on the subject from the civil service judges, and the conclusion was, not the exculpation of the courts, but a general report that they were improved.

That the Government has ever lent an unwilling ear to representations of this kind, and has taken utterly futile means of effecting a reformation. Small remedies of a topical kind manifestly must fail; one of the latest may be cited as an example of the spirit in which the Government has dealt with the enormous evil. As an inducement to merit, and to counteract the force of temptation, Government has within a few years made it a rule to fill up the higher grade of principal sudder ameen from the lower grades by promotion. The bright motive and reward thus held out to purity is just one chance for one out of from six to eight persons, and of promotion from 180 *l.* or 300 *l.* to 480 *l.* per annum, and which chance can occur only once in 10 or 12 years, there being but one principal sudder ameen in each zillah, and from six to eight moonsiffs and one sudder ameen; and it may be added that, if this could possibly avail in a small degree, it has a counterbalancing evil, namely, of confining the important office of principal sudder ameen to the class of persons who can accept, in the first instance, a very inferior office, and a salary of 120 *l.* per annum, and presumably, therefore, the rule of promotion excludes all persons qualified by legal and general education. It is obvious, also, that it leaves the principal sudder ameen without any inducement, although the higher office of a judge of appeal might have been opened to this class, and presumably it is better qualified for an appellate jurisdiction than the class of civil service judges, who, under existing arrangements, have no original jurisdiction, and whose training and experience do not qualify them to correct the inferior civil tribunals.

That your petitioners deprecate being supposed to impute to natives any want of capacity to acquire the proper legal qualifications, or to rise to a proper standard of morals, but they describe what they believe to be the state of facts at present.

Civil Service Judges.

The appellate jurisdiction in civil cases has next to be described. It is almost exclusively exercised by the civil service judges, of whom there is one in each zillah, who is chiefly a criminal judge (called in the latter capacity sessions judge), but also a civil judge for appeals up to 500 *l.*, beyond which sum the appeal lies to a court (the Sudder Dewanny Adawlut) composed of five civil service judges. These five judges together receive in salary a sum exceeding the aggregate salaries of all the moonsiffs in the Lower Provinces; and added to the zillah judges, the entire body consists of 37 persons, who received 120,000 *l.* in the year, in which the salaries of moonsiffs, sudder ameens, and principal sudder ameens amounted only to 55,000 *l.*; a striking contrast of the care with which this class has been guarded at one of the avenues of temptation; and your petitioners readily admit their general abstinence from the practice of corruption of every kind, but more than this negative praise cannot be awarded to them; and your petitioners confidently represent that their administration of justice is the subject of universal complaint and dissatisfaction, and which are founded, as your petitioners believe, on experience of their want of proper qualifications, and the bad quality of their decisions; and, although it would be impossible to justify this opinion in detail in a petition, the few following facts may be mentioned, namely, that they come to India, and are appointed to the judicial office, without professional qualifications; that for 60 years they have been in exclusive possession of the whole or some important part of the administration of justice, and yet have furnished the inferior courts with no body of general rules or principles; that, though required to follow equity, they have built up no system of equitable jurisprudence, but the inferior courts still possess only the barren verbal rule expressed in the regulations; that by "circular orders" and "constructions," the sudder courts have prescribed rules and legislated somewhat as the emperors did by their rescripts; but these "orders" and "constructions" are among the worst parts of the law, and have increased its uncertainty, and the difficulties of all the inferior judges; and lastly, that for some years the decisions of these courts have been printed, and form a considerable body, but they are obscure and uninstructive. By all these circumstances (and others might be adduced) may be proved that the civil service judges want the proper qualifications for judges, and the public dissatisfaction be justified.

Opinions of British Inhabitants.

That in consequence of this state of the law in the courts of the East India Company, and of the courts themselves, the British inhabitants offered a strong opposition to the Act passed in 1836, and which has been followed by others, for bringing them under the civil jurisdiction of those courts. But to reconcile them to it, the public was assured by the organs of Government that the law and courts would be improved, if from no other cause,

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from the necessity of conforming to a more certain and higher standard of right, in order to satisfy British suitors. But this assurance has not been fulfilled, and the bad state of the law and the courts of the East India Company forms one great disadvantage against which British enterprise and character has to struggle in India.

The Criminal Law.

That the criminal law of the East India Company's courts is fundamentally Mahometan; as much a foreign law, therefore, as the English in relation to the Hindu part, which is a great majority of the population. That with respect to Hindus and others not of the Mahometan faith, the opinion (futwa) of the Mahometan law officer, who is in the nature of an assessor attached to every criminal court, may be dispensed with; and some difference may, on the requisition of the parties accused, be made in the mode of trial of persons not Mahometans, all which are equitable modifications of pure Mahometan law so far as they go, but they leave the foundations of the system Mahometan; and the chief effect, as your petitioners believe, of permitting the judge to decide without the Mahometan law officer, is not to introduce a different system of law, but to place persons accused (when they avail of the privilege) more at the judge's discretion. That such a state of the criminal law would be intolerable to British people, and therefore they have always resisted and still protest against its extension to them. That accordingly your petitioners pray your Honourable House to take their case in this respect into special consideration, and to provide that English criminal law, divested in a great degree as it is now of technicalities of procedure, shall be universally administered to them and to all persons of Christian denomination or faith, whether British, East Indian, or foreign, with such modifications only of procedure as may be passed by the Governor-general of India in Council, with the previous assent of Her Majesty in Council.

The Police.

That the police of the Lower Provinces totally fails as respects its proper purposes, the prevention of crime, apprehension of offenders, and protection of life and property; but it is become an engine of oppression, and a great cause of the corruption of the people. That your petitioners desire to state a few facts in connexion with these propositions. The Lower Provinces, concerning whose police your petitioners are now speaking, are divided into 32 counties (zillahs), and contain an estimated population of 30 millions, and comprise an area larger than France. The proper police force in these counties consists of superintendents (dorogahs), serjeants (jemadars), and constables (buckendauzes), amounting in the whole to 10,000 or 11,000 persons, and to these have to be added the village watchmen, who are paid by the villages and not by the Government, and are so rarely known to prevent a theft or other crime, or to apprehend the criminal, that they must count for very little in an honest appreciation of the general system. That these numbers are insufficient with reference to the existing state of the population of Bengal; and that in the present state of crime, an exclusively native police, however numerous, can hardly be made sufficient.

That a native police, as this exclusively is, requires constant and close superintendence, and power of superintendence is given to the magistrates; but from a variety of causes no effective superintendence is or can be exercised by them. Among these causes may be mentioned: 1. The paucity of magistrates, for which no remedy appears practicable, so long as the exclusive privileges of the civil service are upheld; 2. The size of their districts; there is one magistrate and an "assistant," or pupil of the civil service and a deputy magistrate, to a zillah, the zillah being, perhaps, as large as Yorkshire, or of an area of 6,000 or 7,000 square miles, and containing a population of one million; and, 3. The judicial duties of the magistrate, which are alone sufficient to occupy all his time, are by their nature incompatible with the activity and locomotion required for superintendence. It may, therefore, safely be affirmed that effective superintendence over the native police there is and can be none under the existing institutions.

That your petitioners will make a brief statement in illustration of the practical bearing of the existing system on the condition of the people. That in case of the apprehension of an offender, and in order to prosecute him, it is necessary for the injured party and his witnesses to go before the magistrate, but this may be a journey of from 15 or less, to 50 miles or more, in consequence of the extent of his district, and when arrived at the magistrate's office, he may be detained days or weeks from a variety of causes; that in fact a magistrate's compound in the Lower Provinces often presents the spectacle of hundreds of persons thus kept in detention for weeks; and if the offence is of a grave character, or beyond the jurisdiction of a magistrate, he and his witnesses may be required to take a second journey of the same distance to the sessions, and be there detained days or weeks waiting for a trial. At the sessions also, hundreds of persons are constantly detained at great distances from their homes. That to avoid these inconveniences, the population render little or no aid to the police for the enforcement of the law, but on the contrary they are generally averse to do so, and hence has arisen a practice which is a great reproach to the police system, namely, that witnesses generally and prosecutors often are made prisoners, kept under arrest, and sent to the magistrate, and afterwards to the sessions in actual custody. That from this state of the law and police result the following among other evils: persons robbed deny the fact of a robbery, or if they complain, the persons who could be witnesses deny all knowledge of it, the immediate interests of these classes being arrayed, by reason of the state of the law and jurisdictions, against the objects of law and justice. Often under these circumstances the native policeman, to do his duty, employs the means of terror, and torture is believed to be extensively

extensively practised on persons under accusation, and the injured party for not assisting him becomes an offender. All the evil passions are thus brought into play, and ingenuities of all kinds, both by people and police, are resorted to. Another result is the constant device of proving a true case by witnesses who know nothing about the matter; justice is supposed thus to be satisfied, but convenient perjury becomes familiar, and perjury loses its criminal character among the people. Thus, and in a thousand other ways, the law and police operate to corrupt the people and spread corruption; moreover, the very circumstances which repel the honest, attract those who have revenge to gratify, rivals to injure, enemies to destroy; and for these and other dishonest purposes the police and criminal courts are resorted to, and police and law under the present system are terrible evils. Appendix, No. 7.

That a further aggravation of evil results from some powers possessed by the native police, which practically are magisterial, such as the power of receiving confessions, and in all cases of taking (though not on oath) the deposition of witnesses, which powers are exercised by the serjeant (jemadar) in the absence of his immediate superior (the darogah), and thereby practically the course of criminal justice takes its direction from them, and thus the police control the magistrate's functions instead of his superintending and controlling the police.

The Civil Service.

That among the subjects on which evidence was taken by the Committee of the House of Commons previously to the renewal of the last Charter Act, one was, the education given at Haileybury, and the means existing in India of completing it, before the cadets of the civil service, chiefly appointed from that institution, entered on their public duties. That a deficiency of qualifications was proved, and a plan was adopted by Parliament and embodied in the Charter Act which preserved Haileybury, but according to which only one-fourth of the candidates in the Haileybury College were to receive appointments, which plan would probably, as intended, have secured the following objects: 1. The suppression of what was proved to be an abuse, of making every nomination of Haileybury virtually an appointment to a highly-privileged and important branch of the Indian service; 2. The exclusion of the unworthy, for which, as proved particularly by the learned professor Mr. Empson, some provision was necessary; and, 3. Competition among the candidates, under such conditions as should secure the eventual preference to merit and raise the average and standard of it. That this plan incidentally reduced the value of the nominations to Haileybury, and before it could come into practical operation it was repealed by statute, and with it all security ceased for the desired objects, no other plan having been substituted. That the qualifications of the cadets of the civil service are no better in the present day, and there is reason to believe, from historical evidence, that the service produces a smaller proportion of distinguished excellence than formerly. That in every kind of office superiority is given indiscriminately to this portion of the service, and virtually it has the unity, strength, and narrow interests of a close corporation, though not legally constituted as such; for example, two and sometimes three members of the Supreme Council, all the secretaries and under-secretaries of the supreme and local governments in the civil departments, all the members of all the civil boards and their secretaries and under-secretaries, all the judges of appeal both in the metropolitan and zillah courts, all the commissioners of revenue, all the collectors, all the magistrates, and (everywhere) all the heads of office, as at the Treasury and in various miscellaneous offices, are exclusively of the so-called civil service. That this monopoly of high office is highly prejudicial to the public interests, and exceedingly unjust towards other public servants, who are universally subordinated to this privileged service, and who, by no recommendation of qualification or merit, or length of service, can rise from official insignificance to the privileged order, though their duties and offices are often the same, only with different names, and usually of equal importance. The principal sudder ameen, for example, whose duties have been already described, can never rise to the grade of a (so-called) civil or sessions judge, nor the deputy magistrate to be a magistrate, though he may have the full powers of the latter, nor the deputy collector to be a collector; nor is this the only injustice. The salaries of the uncovenanted service are in no fair proportion to those of the civil service, as is exemplified by the comparison already made between the salaries of the covenanted and uncovenanted judges, and as it must be added is the fact as respects all other offices; a deputy magistrate for example of the first grade, one who has been vested with the full powers of a magistrate by special order of Government, and therefore after long trial and experience of his merit, has about the same salary as the inexperienced and untried civilian when first posted and placed really in pupillage as an "assistant" to a magistrate, or as the civilian suspended for misconduct. In the matter of pensions the injustice is of the same glaring kind, as well in respective comparative amount as of the different conditions on which they are granted to the two classes; and the same complaint applies to the furlough and other leave of absence rules, and to many occasional advantages, such as deputation allowances, extra pay, and duplication of offices, which are exclusively possessed by the civil service. That in the matter of punishments, trials, and complaints the same disparity exists. That, allowing the necessity for a severe control, it ought to be exercised in the same manner, but is not, over all public servants. It is a common remark, and in a great degree true, that official negligence, unfitness, abuse even of authority, and other faults on the part of a civilian are generally visited only by removal to another appointment of the same rank and emolument. Even when under suspension for some grave offence, the civilian has a very considerable allowance; and he cannot be dismissed from the service even by the Governor-general in Council; suspension is his worst punishment; and upon being suspended he becomes entitled to a certain fixed and considerable allowance. That there

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appears to be a striking deficiency of principle in the appropriation of offices to the privileged service. Many of these offices have duties simply of clerks and accountants, and which would be better performed by persons brought up for such employments, or without high pretensions. That the only special qualifications which the civil service ever generally has are gained not by study or professional training, but by actual practice and experience at the public expense, and which never or rarely rests on a basis of education and science, and consequently they are not intrinsically superior to the qualifications of other classes of public servants. That the practice of promotion by seniority appears to set aside all considerations of qualification; the magistrate or collector is raised to be an appellate judge in civil causes, having previously been employed in the active business of police, and chiefly criminal law and miscellaneous business or revenue; and from being a judge he is made a commissioner of revenue, as far as appears, only because the salary of a judge is a few pepper-corns less than that of a commissioner: in short, changes of employment take place in rapid succession, apparently without reference to aptitude, general or special, or to any consideration but the tastes, interests, or connexions of the individual, or his length of standing; and one consequence is that civilians are constantly found at the head of departments, offices, and courts, about which and their business they know little or nothing.

The East India Company's system was founded on the supposition that the Hindu and Mussulman population on the one side, and on the other the Company and its servants, were the only persons who had a right in the country, and could have a legitimate part in the government: the civil service is a remnant of this system, is constituted on this supposition, and is, in fact, a monopoly of the best employments. The institution in this respect is unjust both to the native and Christian population, and in the former class a considerable part of the latter class may properly be included, for great numbers of pure European as well as mixed blood have been born in the country, therefore are natives of it, and have no other home. That the East India Company's commercial interests depended on its civil service system may be true, but the ascendancy of the Crown can better be promoted by a liberal policy in all respects to the Christian inhabitants. Your petitioners beg your Honourable House to take a survey of the general character and condition of the classes to which your petitioners belong in Lower Bengal. First, in Calcutta they have increased in numbers, as the foreign commerce of India has increased, and they are essential as its instruments; they are the security on which the British capitalist relies for his information and returns. They are essential also as aids to the natives in their commercial relations. In Calcutta also are established a large body of British-born and country-born tradesmen, who carry on many of the trades of Great Britain which were formerly unknown in India; by these classes is diffused among the natives a practical taste for a thousand new means of enjoyment supplied by the manufacturers of England. To these two classes must be added the legal profession in both its branches, and the medical; and if they are only found in Calcutta, the cause is that the rest of the country is practically closed to them, not by any deficiencies or want of enterprise of their own, but by the East India Company's system. If a Sir William Jones, for example, were to desire to be a Company's judge, he could only become a moonsiff at 120*l.* per annum, in the first instance, and the English bar could find no scope in courts whose judges are not jurists, nor brought up in habits of discussion. Secondly, out of Calcutta the Christian inhabitants are connected with capitalists and merchants in different parts of the world, and they are engaged in superintending and urging production of indigo, silk, and other things which form the exchanges with Great Britain. As a whole, therefore, these classes may be described as comprising men of all ages and occupation—the mercantile, agricultural, professional, scientific, and mechanical—they present a fair image and representation of British capital, enterprise, acquirement, ingenuity, and talent, and of the middle classes of England. It is by these also that the British people become known and their character understood by the native population. Yet the East India Company's system, in a great degree, ignores these classes, refuses to them proper laws, and offends them, for the sake of its civil service, by one general exclusion from public employment on every fair principle, and leaves it to be supposed that British ascendancy depends on their exclusion; as if cadets, who come out at the age of 22, and whose life is passed in narrow official trammels, could alone be loyal. That the privileges of the civil service are not only unjust in these respects, but they are direct obstacles to the most necessary reforms; but this topic, leading as it does to questions of administration, cannot be satisfactorily treated of in a petition. Your petitioners therefore pray for such a change in the arrangements for supplying the public service in the civil departments as to your Honourable House may under the circumstances stated above appear desirable; and particularly they submit to your Honourable House the expediency and necessity of inquiring into the nature and number of public employments in India, the salaries and emoluments attached to them, and the principles on which, if at all, the public service ought to be supplied from England.

The East Indians.

That your petitioners also beg to bring under the consideration of your Honourable House the case of the East Indians, a class all of whom are of Christian denomination, and, though of mixed blood, British in education, habit, and family ties and connexions, but not British subjects within the technical signification of the term, and consequently they have no proper legal status, but are subject to the same criminal law as the natives, and they have no civil law out of Calcutta. This state of the law in relation to them is an admitted grievance, and the same grievance exists in the case of all foreigners, not being Hindus or Mahometans,

Mahometans, such as French, Germans, and other foreign people, and to whom also may be added the class of natives become Christian. That to provide an equitable status for all classes not being British subjects, nor Hindus or Mahometans, a law, known generally by the name of the *Lex Loci*, was prepared by the Indian Law Commission, and it would have relieved the East Indians, but it has not been passed, and therefore your petitioners press on your Honourable House the said case of the East Indians and other said classes of persons.

Education.

That your petitioners desire to represent, on behalf of the East Indians and others of Christian denomination, who by circumstances are permanent residents in India, the want of collegiate institutions for the higher branches of education, and a university to grant diplomas of qualification; that in the former, especially, law should be taught as a science, and a class of persons might thus be formed, qualified, in the first instance, for professional employment in the courts, and eventually for judicial office; and a very considerable body of permanent Christian inhabitants desire that their claims and interests should be considered in all arrangements for the education of the people.

Public Works.

That there appears to be on the part of Government a lamentably defective appreciation of the importance of roads and other public facilities of intercommunication. There is only one metalled road in the Lower Provinces, the grand trunk road, and it is the only road supported at the expense of Government; the other roads are made by the landholders, on the requisition of the magistrate, or with local funds, and generally they are designed to connect the different police stations, and not to open traffic or benefit the country people, and from the nature of their materials most of them during the rains are nearly impassable. Other roads there are none; and the grand trunk road itself, for want of bridges and sufficient repairs, is usually impassable for carriage traffic during a part of the rainy season. It is a striking proof of the little regard paid to the public convenience, so far as this great highway is concerned, that of two small bridges which were carried away by floods in 1847, neither is yet rebuilt, though the situation is in one of the most populous and highly cultivated districts, where the traffic is great, and within 35 miles from Calcutta; but in the place of one only a ferry was for some years established, though both these bridges appeared in the Report published by the House of Commons as public works which had been sanctioned; and to the present day they are replaced only with temporary erections insufficient for the traffic, and on one of them tolls are established where there were none before.

Of course, a government which makes no roads, builds no bridges across the great rivers, much though they be needed. Public ferries there are, but many more there ought to be, and their management is much complained of for delays and want of safety. On some rivers tolls are taken for keeping open their navigation, but the navigation derives little benefit, and appears to be left to nature. The country offers singular facilities for canals, for shortening the lines of communication from various districts to Calcutta and other places, and opening the country generally, but they are not constructed. A canal which terminates in Calcutta is allowed to remain so narrow as to be constantly choked up with traffic-boats, though it produces a large profit, and admits of enlargement. A large surplus is derived from ferry tolls and similar local sources, and is appropriated by promises and law, but not applied to public improvements, except that in the year 1850-51, a few hundreds of pounds were so applied from the ferry funds, and distributed among several zillahs, each containing an area of several thousand square miles.

Your petitioners cannot pass unnoticed the subject of the railway. Its construction appears to be proceeding with slowness which no company of capitalists unguaranteed would or could afford to tolerate, and which, therefore, must be ascribed to the influence of checks applied by Government to secure economy and prevent fraud, but which usually do neither, as experience has proved, but are mere impediments, and have the sole merit of giving to Government an amount of patronage.

That the Government has not at its disposal the variety or amount of scientific and engineering skill requisite for the proper prosecution of public works of utility; to the Military Board, which has their superintendence, they are secondary objects, and works are constantly stopped from officers being called away to their military duties, and therefore your petitioners think new provisions necessary for the prosecution of such works.

The Course of Legislation.

That your petitioners beg to represent to your Honourable House a few traits of the course of legislation. The early legislation presents some great measures, which are clearly referable to the impulse temporarily given by the discussions in Parliament. Among these the establishment of the liberty of the press deserves the first and most grateful mention; it has been justified by its fruits; the press has proved its worth by, what is a great merit in a community so much under official influences, its general independence; and it is equal to any colonial press in activity, in diffusing information, in intelligent discussion, in assisting the formation of public or political opinion, and in enlightened criticism on and appreciation of the conduct of Government. The attacks industriously made upon it of late from official quarters give your petitioners much concern; and, if its merits should come

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under the consideration of Parliament, your petitioners trust your Honourable House will rather take your appreciation of it from your petitioners and the classes to which your petitioners belong than from the official classes, many of whom appear to desire to restrain and abridge its freedom.

Your petitioners also refer with unqualified satisfaction to the abolition of town and transit duties—another very early measure of the new Legislative Council. So long as the East India Company's monopoly lasted, these duties were maintained; their repeal was the inevitable consequence of commercial emancipation, and therefore really of Parliamentary origin. The new customs duties on exports and imports also deserve a favourable mention, as being moderate, but they were not established in Madras until some years later than in Bombay and Bengal, and their uniformity has been again broken by a recent Act, which raises the customs duties at Bombay alone; and therefore the sincere gratulations of the public are given, but with some doubt of the integrity of the fiscal principles of Government.

An uniform coinage for India also was early established, and more recently a ship registration and other beneficial and similar commercial regulations.

In the department of English law there is much ground for grateful remembrance. The Wills Act has brought to India the recent statutory law of wills, and the law of dower and inheritance has been altered as in England; but these changes and others of the same kind are due to the influence of the legal profession. In the Supreme Court, the modes of procedure have rapidly followed the reforms of procedure in England, not through legislation, but mainly in consequence of a wise provision in the constitution of the court itself—that its practice shall conform to the Courts of Westminster Hall. It would be praise undeserved to ascribe this large branch of legislation and reform to the spirit or judgment of the Indian Government; the praise is due to those who have no place in the East India Company's system. On the other hand, on matters over which British people have little or no influence, legislation is much less commendable as a whole.

That when the civil jurisdiction of the East India Company's courts was universally extended over British subjects, it would have been fair to have enlarged the appellate jurisdiction which the Supreme Court already possessed, under statute 55 Geo. 3, c. 155, s. 107; but, instead of this being done, the same Act which extended the jurisdiction of the Company's courts repealed the appellate jurisdiction of the Supreme Court. The preservation of the appellate jurisdiction of this court would have been some protection against bad procedure and misdecision.

That recent legislation is distinguished by a great number of enactments, creating powers of an extraordinary kind unnecessarily, or conferring powers on persons not fit to exercise them. Of the former kind in Calcutta, for example, where all legal authority reasonably exercised is respected, to an officer called the collector of Calcutta (not the collector of customs or of municipal taxes, but of the land rents of the East India Company, in its ancient right of a zemindar or landholder) has been given, by a recent Act, power to punish for a contempt to himself with a fine of 20*l.*, and in default of payment to one month's imprisonment; thereby creating (1) a new offence, and (2) denying the ordinary redress for wrong; inasmuch as the Act referred to obliges any one who may be wronged to seek redress out of Calcutta in a court of the East India Company in the country; while (3) at the same time it empowers the officer himself to avail himself, in addition to the usual powers of distress, of the Calcutta courts and magistrates. The collector in this case belongs to the privileged service, and it is impossible not to surmise that the offence would not have been created in favour of a common tax or rent collector. As an instance of powers conferred on improper persons may be mentioned an Act authorising native police officers to fine for an infraction of the salt laws, and to imprison for a fortnight. The Act Book abounds in legislation of this character.

That the legislation respecting crime is equally unsatisfactory. By reason of the state of the police, every landholder, planter, banker, considerable trader, and storekeeper, is obliged to keep men, often in very considerable numbers, armed according to the custom of the country, to defend his property against midnight gangs, called Dacoits, and other robbers. Such irregular forces, though necessary for self-protection, are of course liable to be employed by neighbours at enmity against one another, and by circumstances to become aggressive; and hence the frequency of affrays, which are to be deplored. But the primary evil, in the whole set of circumstances, is the state of the police, and its reform is the proper and essential remedy. Instead of which, mere legislation against crime is resorted to; ingenuities are exerted to bring the propertied classes within the criminal categories; the laws on paper are made more severe; increased judiciary powers are given to the magistracy; but the real evil remains unabated. It is obvious that legislation of this kind is only acceleration on the road to ruin.

Act for relieving Magistrates from Responsibility.—That in 1850 an Act was passed for the protection of magistrates and others acting judicially from responsibility to law. That the said Act, in the obvious meaning of its terms, protects them in any illegality not clearly referable to a malicious object or intent; it protects ignorance, negligence, and incapacity, and is inconsistent with a government according to law, and with justice to the community. That if inferior judicial officers are thus protected, the Government will be called on and ought to give redress to parties illegally injured, and that thus, indirectly but inevitably, the said Act also places the entire magistracy and inferior judicial officers in a state of responsibility for their law to the Executive Government, and destroys their judicial independence, and therefore the said Act is also contrary to all sound principles of public policy.

Postage.—

Postage.—That your petitioners have still to desire the recognition on the part of the Indian Government of the principle on which postage rates in England have recently been reduced by Parliament, and a general reduction of postage rates in conformity with this principle. That your petitioners believe that on inquiry your Honourable House would find that the existing inland postage rates defray the cost of the carriage, not only of all private letters and heavy post-office establishments, but also of all the correspondence of the Government of India, presidency governments, and their numerous military and civil departments.

Tolls on Roads and Bridges.—That your petitioners deprecate the establishment of tolls on any of the great highways made or kept up at the expense of Government, and for which an authority has been recently given to the presidency governments by an Act of the Legislative Council passed in 1851; and the said Act extends to bridges also. The only previous Acts of the kind were two Acts passed in 1837 and 1838 for local tolls at the Bhore Ghaut, in or near the town of Bombay, and which tolls had long before existed under local regulations. Under the new Act, a toll has been established on a bridge which is not strong enough to bear an elephant, and an elephant which, for want of a proper bridge, is obliged to ford the river still pays a new toll of 2*s.*

The East India Company's Spirit License.—That your petitioners cannot pass unnoticed one cause of great injury to the poorer classes of people. Temperate as has always been supposed by nature, their temperance as a habit is fortified in the case of the Hindus by the rules of caste and the Hindu religion, and in the case of the Mahometans by the commands of their prophet and all the principles of the Koran, and in the case of both by native public opinion. That indulgence in spirituous liquors consequently was discountenanced by the people in general, and was confined to the very lowest classes, or the two lowest classes, in the long settled parts of Bengal, and the united action of religion and public opinion probably would have prevented its spreading. That within a few years Government has extended to large villages the licensing system for the sake of revenue, and its effect has been to lead to the establishment all over the country of shops for the sale of spirits. The license of Government is found to discountenance the public opinion of the native community, and in every considerable village there is a licensed shop, where, until the license was established, there was no such shop at all. Religion, caste, and public opinion are ineffectual against the license, and the whole agricultural and labouring population is thus being corrupted, and falling into habits of indulgence in a new form of intoxication.

That this is a great evil to the employers, as well as to the people, and British residents in the country universally attest its progressive increase, and generally ascribe it to the East India Company's licensing system. That there is no hope of the abolition of this system without the interference of Parliament, and your petitioners pray for an immediate inquiry, under the direct authority of Parliament, into the extent and cause of the alleged evil.

Salt Duties.—That the salt duties appear to your petitioners deserving the consideration of Parliament, as pressing with considerable severity on a very poor population, and the occasion of numerous small oppressions and some other evils. It is true that the duty is no longer founded in a monopoly, but its amount is upwards of 400 per cent. on the natural cost of the article, and its cost to the consumers is still further enhanced by the means necessarily used for the protection of the revenue. Many proofs that the duty presses with very great severity might be given, but one must here be sufficient, namely, that out of Calcutta, as far as the North-west Provinces, pure salt, as sold by the Government or imported, is almost unknown to the mass of the people; adulterations of all kinds are resorted to to reduce its price to their means of purchasing; a wholesome condiment is thus often rendered unwholesome, and as to all purposes for which pure salt is necessary the duty is a prohibition. Moreover, the revenue can be protected only by a severe system of fines, penalties, and confiscations, and a very inconvenient interference with general traffic. On the banks of all the great rivers within the tidal limits, salt guards are stationed to prevent smuggling, and all traffic-boats are subject to molestation from native officers, who levy small contributions on them. In the interior, and on different parts of the frontier in the North-west Provinces, there is a jealous excise system; and in the Punjab the means employed to prevent smuggling are a source of great irritation. It should further be mentioned that the manufacture of saltperre was very recently proposed to be put under new regulations of a most injurious kind to the saltpetre trade, for no purpose but to prevent the production of an article for the adulteration of salt, which the saltpetre works are supposed to supply to the dealer in that article. And to protect the inferior salt of Lower Bengal, that of the North-west Provinces is subject to a differential customs duty.

That under two sections of the Charter Act, viz., the 81st and 82d, British-born subjects are restricted to provinces acquired before the year 1800, except with license. The restriction probably has remained to a great degree inoperative, but it is a stigma derived from the policy of former days when all, except the servants of the East India Company, were regarded as interlopers and oppressors. In the opinion of your petitioners every British subject ought to have free access to every British province, except perhaps in time of actual war (*flagrante bello*). Your petitioners therefore desire the abolition of the said restrictions.

In adverting to the course of legislation, your petitioners must also deplore the little use made of the Indian Law Commission, which was appointed under the authority of the Charter Act to prepare laws for all classes of people.

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The Supreme Government.

That the above facts and circumstances press on all rational men the consideration of the constitution of the supreme authorities.

With respect to the Supreme Government of India, your petitioners beg to point out the paucity of its members, at no time exceeding six, and usually only five persons, and its necessary consequence, that the same persons, with the exception of one, form the Executive Government and the Legislative Council, including in both the Governor-general, and that therefore practically the only real distinction is between the Governor-general in his separate official capacity and the rest of the council, and that the distinction between the Executive Government and Legislative Council is a nominal one. When, therefore, it is considered that the political and legislative authority of the Supreme Government extends over all India, and to many foreign oriental relations, that it has exclusive authority to act or decide on some subjects of the greatest difficulty and importance, that the local governments are entitled to resort to it for advice and direction, and in many matters are not qualified to act without its concurrence; that its authority is embarrassed by subordination to greater powers at home, whom, as their agent, it has to keep informed, and to receive instructions from them, and that in this respect it has to keep up a certain harmony of ideas and operations, it may well be believed that five persons or six are insufficient for such extensive, complicated, and diversified functions.

That your petitioners also beg to point out how the paucity of the members operates on the choice of persons, and consequently affects the quality and composition of the government. The Governor-general is always one of necessity; one is a military man, one is a lawyer for legislation, the remaining two must be selected for their Indian experience, but Indian experience, though essential, is narrow, being gained usually in one department of civil duties, and in only one presidency, namely, in Bengal, in Madras, in Bombay, in the North-west Provinces, or in the Punjaub (may now be added), and the population, institutions, revenue, and judicial systems of the different presidencies widely differ. And therefore your petitioners, without even questioning the fitness of any individual, may still regard the council as very deficient, and especially as wanting in variety of composition, and as of too limited attainments and experience—deficiencies which would account in some degree for the little progress made in all great improvements, and the retrogade tendency of government.

That by the facts above stated, and these reflections, your petitioners are inevitably led to recommend a considerable addition to the Legislative Council, and especially the admission to it of non-official persons from the commercial and professional classes.

That the office of Governor-general requires adaptation to the empire as it exists at the present day. That your petitioners believe there is not to be found any exact account or definition of the separate powers of the Governor-general. That for the last 20 years the Governor-general has been more than half the time away from the seat of government, and your petitioners believe that the ordinary affairs of the government are occasionally put to much inconvenience by his absence. That it is obvious that the emergencies which require his absence would generally leave him little leisure for distant concerns. That the most eminent capacity for deciding in a council is often a very insufficient qualification for deciding alone. That the Governor-general is obliged to delegate to the council, under a temporary president, the decision of matters on which his personal advice and orders must be desirable, and when, as may and has happened, either the Governor-general or the council declines or is legally incompetent to act without the concurrence of the other, the public business stands still, arrears accumulate (of which some are swallowed up by mere lapse of time), private interests suffer, public interests suffer, and government falls, first into disorder, then into apathy, and much which requires to be done is finally left undone.

That your petitioners also beg your Honourable House to reflect on the prejudicial influence which the absence of the sole representative of the Crown must have on the spirit of the administration, he being also the sole British statesman by profession in the Government, the only member of it who has been brought up among the public men of England, who knows their mode of thinking and understands the parliamentary system, and can appreciate the importance of non-official and public opinion.

The Home Authorities.—That your petitioners also submit that the present opportunity should not be lost of revising the manner in which the home authorities are constituted, and their functions are arranged. That since the last Charter Act, the Court and Board have been opposite litigant parties in the Court of Queen's Bench, apparently in consequence of a mutual misunderstanding as to their respective powers. That a contest also arose between the same authorities respecting the recall of a Governor-general, the two cases together presenting the following anomaly, namely, that the Court is bound to transmit to India, for the Governor-general, the mandate of a particular policy, without exercising any discretion; but, on the other hand, has the power to recall a Governor-general who may be specially charged with the execution of that policy, and may have done his duty satisfactorily to the Queen's Government; and hence their respective powers appear not well arranged, nor well understood. That of these bodies, one appears deficient in that knowledge of the country and people which the other body possesses, while the latter appears deficient in the higher qualities required in the governors of a great country; and hence the laws, the courts of justice, the police, and other institutions remain in the state already described, so unworthy of the British authority and the British name.

That your petitioners, consequently, feel themselves bound to declare their opinion, and, as

as they believe, the opinion of the public of India generally, to be unfavourable to the present double Government of a Board of Control and Court of Directors. Appendix, No. 7.

That the manner in which the Directors of the East India Company are appointed is most objectionable, in the following and some other respects, namely, (1.) That, although their functions are politically of the highest order, and affect the well-being of India, they are self-proposed, in the first instance, and without any security for their being qualified, or proper persons to be entrusted. (2.) That they are elected by a proprietary body, whose capital is now guaranteed by Parliament, and which, therefore, has lost that interest in the Government of India which formed the basis of their elective privilege; and (3.), which body requires to be canvassed, and gives its votes on a well-grounded calculation of a return of benefit in the distribution of patronage; and (4.) That such a system has the effect of preventing highly qualified persons from ever becoming directors.

State of the Country.—That, from what is above stated respecting the law, the law courts, and the police, your Honourable House will be able to draw, with the fullest assurance of truth, many conclusions respecting the condition of the country. It might appear paradoxical to deny its prosperity in the face of the vast increase which has taken place in the foreign commerce; but it is undeniable that, contemporaneously with this increase, crimes of a violent character have increased, and law and police are also regarded as affording little security either for rights of persons or property. Hence the limited application of British capital to agriculture and mines, and the limited employment of British skill in India (the former being confined to a few valuable articles, such as indigo—for the cultivation of which the soil and climate are so superior as to afford the profits almost of a monopoly—silk, and a few others); and hence, also, small capitals can rarely be employed in India. The planter or capitalist in the interior never or rarely leaves his capital when he himself quits the country in consequence of its insecurity, and from this cause results the high rate of interest of money. Landholders pay 25 and 30 per cent., and the ryot or cultivator is in a worse relation than of servitude to the money lender. Your petitioners, therefore, think that inquiry ought to be instituted by Parliament into the state of the country, in order to provide some probable remedy for the evils adverted to.

That, adverting to the inadequate manner in which the objects of the last Charter Act have been carried out, and to the several facts above stated, your petitioners suggest the expediency of making the new arrangements of the Government for a shorter term of years, and at first only for one year; and, in conclusion,

Your petitioners pray your Honourable House to take the several matters aforesaid into your fullest and most serious consideration, and to take such measures as to your Honourable House may appear necessary to establish the several ameliorations and reforms desired by your petitioners.

And your petitioners shall ever pray.

P. Clarkson Reed,
Zemindar of Purneah and Calcutta.

Hindsey Reed,
Barrister-at-law of Calcutta.

Theodore Dickens,
Barrister-at-law and Advocate of the Supreme Court,
&c. &c. &c.

The Petition of the Master Cutler, and the Cutlers' Company, of Sheffield and Hallamshire, in Meeting assembled,

Showeth,

That, Her Majesty's Ministers having announced an intention to submit to Parliament during the present Session some measure for the future government of India, your petitioners are anxious to record their dissatisfaction with the limited extent of our commerce with that country, and their regret that so little progress has been made in the development of its rich and varied resources.

That your petitioners are of opinion that in any enactment for the future government of India the following suggestions should be adopted:

1stly. That it be regarded as the imperative duty of the Government of India to promote the cultivation of the soil, and to remove all obstacles which impede the progress of industry.

2dly. That beyond making useful experiments the Government should not be permitted to become cultivators, manufacturers, or traders.

3dly. That in conducting their financial operations the Government should be forbidden to become purchasers of any kind of produce on their own account, or to receive by hypothecation produce purchased by any other party.

4thly. That the Government be compelled to expend a portion of the revenue collected in India in the development of the resources of the country, as well as to afford every facility for its profitable occupation; that with this view such public works should be promoted as are calculated to facilitate intercourse with, or improve the physical condition of, the population, to increase the production of cotton and other valuable raw materials, as also to encourage a system of general industry.

 5thly, That

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5thly. That ten per cent. of the revenues of India be applied to the public works above alluded to, such as the construction of trunk lines of railways, the formation and improvement of roads and bridges, the deepening and other improvement of rivers, the formation and care of reservoirs and canals, the erection of piers, and construction of harbours, breakwaters, lighthouses, and all other engineering agencies required in a civilized and commercial country.

6thly. That the application of a portion of revenue allotted to useful public works be under the control of a Board of Works, established and conducted in India, the members of which should have full, extensive, but defined powers, and be nominated jointly by the Imperial Government and the Indian executive.

7thly. That the Government should give every facility for the permanent occupation of land, by removing the objections so often urged to a fluctuating land-tax, by encouraging the purchase, for cultivation of the waste and other lands of India, and by giving such certainty of tenure as will insure the safe application of capital to the universal cultivation of the soil.

8thly. That prompt attention be paid to the removal of evils now existing in India, consequent upon the uncertainty of the due administration of justice and the prevailing ignorance of the people.

9thly. That an annual detailed report on all East India affairs should, as was formerly done, be laid before Parliament by a Minister of the Crown.

Your petitioners commend the foregoing propositions to the favourable attention of your Honourable House, and humbly and earnestly pray that the same may have statutory effect in any legislation for the future government of India.

And your petitioners will ever pray, &c.

Michael Hunter, Master Cutler.

The Petition of the Leeds Chamber of Commerce, by their Chairman,

Humbly showeth,

That, as the period is now rapidly approaching when Her Majesty's Government will have to submit to your Honourable House their plans for the future management of our East India possessions, your petitioners are desirous of recording their dissatifaction with the limited extent of our commercial transactions with that country, and at the same time stating their regret that comparatively little progress has hitherto been made in the development of its rich and varied resources.

That your petitioners are of opinion that the following suggestions should be adopted in any future legislation for the government of that country:

Firstly. That it be regarded as the imperative duty of the Government of India to remove all obstacles which impede the progress of industry, and to promote the cultivation of the soil.

Secondly. That, beyond making useful experiments, the Government should not be permitted to become cultivators, manufacturers, or traders.

Thirdly. That the Government be compelled to expend a portion of the revenues collected in India in the development of the resources of the country, as well as to afford every facility for its profitable occupation; that with this view such public works should be promoted as are calculated to facilitate intercourse with or improve the physical condition of the population, to increase the production of valuable raw material; as also to encourage a system of general industry, and the construction of trunk lines of railways, the formation and improvement of roads and bridges, the deepening and other improvement of rivers, the formation and care of reservoirs and canals, the erection of piers, and construction of harbours, breakwaters, lighthouses, and all other engineering agencies required in a civilized and commercial country.

Fourthly. That the Government should give every facility for the permanent occupation of land, by removing the objections so often urged to a fluctuating land-tax, by encouraging the purchase for cultivation of the waste and other lands of India, and by giving such certainty of tenure as will insure the safe application of capital to the universal cultivation of the soil.

Fifthly. That prompt attention be paid to the removal of evils now existing in India, consequent upon the uncertainty of the due administration of justice and the prevailing ignorance of the people.

Sixthly. That an annual detailed report on all East India affairs should, as was formerly done, be laid before Parliament by a minister of the Crown.

Your petitioners commend the foregoing propositions to the favourable attention of your Honourable House, and humbly and earnestly pray that the same may have statutory effect in any legislation for the future government of India.

And your petitioners will ever pray, &c.

(signed) *Geo. Goodman*,
President of the Leeds Chamber of Commerce.

The Petition of the Mayor, Aldermen, and Burgesses of the Borough of Sheffield, in Parliament assembled,

Showeth,

That it is the duty of all governments to promote the happiness and improvement of the people under their control.

That the history of the British Government of India has been one continued scene of war and annexation, and that the consequences of such a course of proceeding are manifest in the present commercial position of the East India Company.

That petitions have recently been sent from the people of India to the British Parliament detailing the manifest grievances under which they suffer.

That it is desirable, just, and necessary that these petitions should be thoroughly investigated before any Act for the renewal of the Indian government is determined upon.

That it is also desirable, that the present anomalous Government of India should be superseded by a government more directly responsible to Parliament, and that the local institutions of India should, as far as practicable, be made to approximate in principle to the institutions of England.

Your petitioners therefore pray that, before the renewal of any Act relative to the Government of India be determined upon, a thorough investigation may be made into the general state of that country and into the proceedings of the East India Company, and that in the future a government may be established which shall be directly responsible to the British Parliament.

And your petitioners will ever pray, &c.

William Anthony Matthews, Mayor.

Sheffield, 13 April 1853.

The Petition of the Mayor, Aldermen, and Burgesses of the Borough of Sunderland, in Council assembled,

Showeth,

That your petitioners consider that the shipping, mercantile, and industrial interests of Great Britain are to a large extent involved in the welfare of the Indian empire, and they are of opinion that the manner in which its affairs have hitherto been conducted by the Imperial Government, the extraordinary power possessed by the East India Company, and the way in which that power has been exercised, have been alike detrimental to the general interests of the one hundred and fifty millions of inhabitants of India and the people of this country.

Your petitioners therefore consider that the time has come when it is imperative that the Government of India ought to be thoroughly reformed, but they deprecate any hasty legislation on the subject, especially if it should have for its object the renewal of the chartered privileges of the East India Company.

Your petitioners therefore pray that a searching inquiry may be entered upon, embracing the evidence of eminent natives of India as well as the employés of the India Company, and Government officials, with a view to the introduction of such a measure for the future Government of India as shall remedy the evils complained of, and secure to the people of this country and the natives of India the benefits they would derive from responsible and honest government.

James Hartley, Mayor.

The humble Petition of the Members of the British Indian Association, and other Native Inhabitants of the Bengal Presidency,

Showeth,

That your petitioners are desirous of bringing to the notice of your Honourable House the sentiments entertained by themselves and the most intelligent part of their native fellow-subjects all over the country on those points which, in their humble opinion, ought to be taken into consideration at the period of the termination of the charter granted to the East India Company by the Act passed in the reign of his late Majesty King William the Fourth, entitled "An Act for effecting an Arrangement with the East India Company, and for the better Government of his Majesty's Indian Territories, till the 30th day of April 1854." As subjects of the Crown of Great Britain, the natives of this country entertain the deepest sentiments of loyalty and fidelity to Her Majesty, and sincerely desire the permanence of the British supremacy in India, which has ensured to them freedom from foreign incursions and intestine dissensions, and security from spoliation by lawless power. Placed by the wisdom of Parliament for a limited time, and on certain conditions, under the administration of the East India Company, they have enjoyed the blessings of an improved form of government, and received many of the advantages incidental to their connexion with one of the greatest

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greatest and most prosperous nations. They are impressed with a sense of the value and importance of these and similar benefits, and of their obligations to the nation from which they have, under Divine Providence, derived them. They cannot but feel, however, that they have not profited by their connexion with Great Britain to the extent which they had a right to look for. Under the influence of such a feeling, they regarded with deep interest the inquiries conducted by Committees of both Houses of Parliament, between the years 1831 and 1833, preparatory to the passing of the late Charter Act. The fact of such inquiries being on foot, suggestive as it was of great administrative reforms, induced the people, who were unaccustomed to make any demonstration of their sentiments respecting the acts and measures of their rulers, to await the result of the deliberations of the Imperial Parliament.

2. That the principal changes made by the abovementioned enactment consisted in the increase of the powers of the Crown and the Board of Control over the Court of Directors, and those of the Supreme Government over the subordinate governments; in the power of legislating for all classes which was conferred on the Supreme Government, and as auxiliary thereto the appointment of a law commission, and of one member not of the civil service to the Supreme Council; in the extension of the powers of the Governor-general when absent from the Council; in the admission of British subjects to trade in China, and to hold lands in India; and in the increase of the ecclesiastical establishment for the benefit of professors of the Christian religion at the expense of the general revenue of the country. But no provision was made for introducing those benefits which the circumstances of India notoriously required; such as the relaxation of the pressure of the revenue system, by lightening the land-tax where it was variable, or erecting public works of utility calculated to develope the resources of the country, and promote the growth and increase of commerce and manufactures; the improvement of the system of judicial administration, by the selection of qualified officers, the appointment of proper ministerial officers, the abolition of stamps on law proceedings, and other salutary measures; the protection of life and property by the employment of a police adequate to the purpose in point of numbers and discipline under the control of a proper number of experienced magistrates; relief from the gigantic monopolies which the East India Company maintained very inconsistently with their position as rulers; the encouragement of the manufactures and commerce of the country, which had been greatly depressed in consequence of throwing open the trade with India, the education of the people on an adequate scale, for which the grant of a lac of rupees, authorised by Parliament in 1813, was manifestly insufficient; arrangements for the appointment to the higher offices of persons better qualified by their experience, capacity, and knowledge of the languages and laws of the country than those who were heretofore sent out, usually before they had emerged from the state of adolescence; and the admission of the natives to a participation in those rights which are conceded by all constitutional governments, and which would qualify them to enjoy the benefit of free institutions at a future period. The only privilege conferred on the natives was the declaration in section 87 of the abovementioned Act, "that no native of the said territories, nor any natural-born subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the said Company."

3. That the natives of this country were disappointed in the expectation they had formed, that the charter of the Company, if renewed, would be so modified as to provide for some of those administrative reforms which were called for, and also to secure to them some of those civil and political rights which they considered themselves entitled to, even without reference to their position as subjects of the British Crown. That feeling of disappointment has been, if possible, deepened by their perceiving that, notwithstanding the declaration just recited, the natives of India, with one or two exceptions of very recent date, have not been appointed to any but subordinate offices under the company, such as were very inferior in point of respectability and emolument to the posts held by the youngest of their civil servants.

4. That, after being in much uncertainty as to the intentions of Her Majesty's Government to make inquiries into the affairs of India, with reference to the approaching termination of the Company's charter, your petitioners have learnt with satisfaction of the appointment of Committees of both Houses of Parliament to take into consideration the mode in which the government of the British possessions in India is in future to be conducted. They cannot disguise from themselves the difficulties which those Committees will experience in endeavouring to ascertain the nature and results of the administration of the East India Company. The evidence accessible to them will be chiefly of parties who are more or less interested in the maintenance of the present system of the British India administration, and who cannot be expected, even were some of them free from a natural bias, to enter into the feelings and wants of a people widely differing from them in religion, manners, and habits. But your petitioners rely on the wisdom and justice of your Honourable House to give due consideration to the representations which they are emboldened to submit, by the consciousness that, though differing in religion and colour, they are your fellow-subjects, and that their claims as such will not be disallowed.

5. That your petitioners submit that it is for many reasons fit and proper that the period of such arrangements should be shortened, in order to bring the merits and working of them sooner under the review of Parliament. The governments of remote dependencies of the empire are generally liable to be ill-conducted, particularly when those dependencies are of the

the magnitude to which Her Majesty's dominions in India have at this day attained, and when there are various and dependent boards, and the grounds of their proceedings cannot be scrutinized by the public, except by the publication of correspondence by order of Parliament. It seems of paramount importance, therefore, that the administration of India should be more frequently brought under the revision of the supreme authority. An appeal to facts will corroborate this argument. By the last three charters, the government of the British Indian territories was continued to the East India Company for terms of twenty years; but, however urgently reforms and improvements in the system of government might seem to be required, none could virtually be introduced till the expiration of that long period. Accordingly, it required that period before British subjects were permitted to exercise their natural right of residing in, or even of trading with, this part of their sovereign's dominions, and another like period before they were permitted to enter into the trade with China, which was open to all other nations. If British subjects had to wait such protracted periods, in breaking through a monopoly, the natives of India cannot have a better prospect of obtaining reforms which they may pray for, or rights which may be admitted to be unjustly withheld from them. Your petitioners are therefore most anxious that the term of the arrangements which may be next entered upon for the government of this country should not be extended beyond ten years.

6. *The Home Government.*—That your petitioners submit that the existing system for the management of the affairs of India by the Court of Directors and the Board of Control is objectionable on account of its complexity and expensiveness as well as on other grounds. The Court is composed of 24 directors, elected for five years each, who receive each a salary of 300 *l.*—a sum which is manifestly inadequate to secure the services of persons qualified to assist in the government of a vast territory, and willing conscientiously to devote their time and attention to that great undertaking. But in reality the services of the directors are compensated by the extensive patronage which each of them enjoys, consisting in the right to dispose of certain lucrative civil and military and other offices in India. For the manner in which that extensive patronage is used by them they are under no sort of responsibility. Being originally a body of merchants, delegated by their fellow-merchants to carry on the trade with India for their mutual benefit, they received a suitable salary for the extra attention they gave to their joint concern; and it was a part of their functions to select the men whom they sent out to India as merchants, factors, or writers, to look after their enterprises, prepare investments of goods for the English market, and assist in the performance of other details of their commercial speculations. The salaries and emoluments given to their servants in India being small in proportion to the extent of their business, the selection of proper employees was a responsible duty, and not a source of extensively coveted patronage. The directors themselves were chosen for their knowledge of commercial transactions and capacity for commercial pursuits without reference to administrative qualities; but since, in consequence of the change in the character of the East India Company, the directors are required to be qualified not as merchants but as Indian statesmen, it is obvious that the principle on which and the persons by whom they are selected should undergo a corresponding alteration. The Board of Control was appointed with reference to the inconsistency of placing under a body of merchants the government of extensive territorial possessions, and with a view to the political acts of that body being under the actual direction of Her Majesty's Government. Accordingly it was and is composed of a portion of Cabinet Ministers, but the chief responsibility is commonly understood to be left with the President of the Board, who holds no other appointment in the ministry, and alone receives a salary as a member of the Board. The control of the Board extends to a part only of the acts of the directors; the latter, therefore, are in many respects, particularly in the disposal of their patronage, without any check or responsibility. In those matters in which the responsibility of the directors to the Board has been provided for the control exercised is either indirect or liable to be resisted. The directors may be compelled to issue orders affecting great political interests without knowing, or at least without approving, their tenor. The same directors may recall a governor-general who is in the confidence of the Ministry, but is adverse to the objects of the directors' patronage, and thus defy the powers of the Board set over them. They have the powers of instructing the Legislative Council of India to enact what laws they please, and of abrogating any laws that have been passed by that council; and it will be in vain for the people of India to offer any remonstrances to a body so constituted and vested with such powers. The people of India too are often at a loss to comprehend from whom certain measures emanate, whether from the local government by whom they are promulgated, or from the directors, under whose instructions the Government act, or from the Board of Control, who have the right to prescribe the instructions which shall be sent to the Government for their guidance. Hence, they are precluded from offering remonstrances, not knowing but that the authority remonstrated with may have been acting entirely under dictation. Although it is fit that the general direction of the affairs of India should rest with Her Majesty's Ministers, subject to the controlling authority of Parliament, yet it seems obvious that the persons who have to deliberate on the questions which arise relative to the good government of the country should be men not only of great abilities, but sufficiently acquainted with the country whose destinies are to be placed in their hands, and at the same time taken from such different classes as to ensure a freedom from all class and other sinister influences. Your petitioners therefore submit that, on the grounds set forth, the future management of the affairs of British India should be vested in one body, consisting of not more than 12 members, half of whom may be nominated by the Crown, and the other half elected by a popular body, but all of them

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them holding the appointment for five years, and going out of office by rotation; that a suitable salary should be attached to the office, not only to secure men of the best abilities, and to ensure their giving a sufficient portion of their time to their duty, but also to serve as a compensation for the loss of patronage which may ensue from any arrangements which Parliament may see fit to make. In the formation of a Board for the management of the affairs of India on the principle above adverted to, your petitioners submit that the preference ought to be given to those candidates who have resided in India for a certain number of years, whether in or out of the service of the East India Company; and a method may be easily devised by which such candidates may be returned before those who do not possess that advantage; while, on the one hand, a board so constituted will be more directly under the control of Parliament than two distinct Boards with differing powers and divided responsibility, it will, on the other, be maintained at a less cost, and the government of the country will be carried on without those dissensions and other consequences which must arise from an opposition of interests.

7. That your Petitioners submit that the election of the members of the Board should not be wholly confided to the proprietors of East India Stock, who are a body comparatively small in number, and therefore easily liable to be brought under improper influence, and without sufficient motives to seek for the good government of the country. When the proprietors carried on their exclusive trade, they had the right to elect the directors by whom it was to be managed. At the present day they have no concern with India beyond receiving the dividends which have been guaranteed to them by the British nation as the condition of throwing open that trade. It is proper, therefore, that other parties should be associated with them as an elective body, who have a deeper and more direct interest in the welfare of the country and the improvement of the administration. Your petitioners accordingly submit that native and European British subjects, resident in India or in England, who are holders of the East India Company's promissory notes of 4 or 5 per cent. to the value of 25,000 or 20,000 rupees respectively, should be allowed to vote in the election of members of the Board of Management for the affairs of India, and with that view should be allowed to transfer the same to a local India stock at the rate of interest they now receive, and that, after 12 months' registry *bonâ fide* in their names, they should be allowed to vote, in person or by proxy, under the same rules which govern the votes of the present proprietors. Your petitioners also submit that the privilege enjoyed under section 26 of the Charter Act by proprietors of East India Stock resident in England to vote by attorney should be extended to proprietors resident in India, and that these should have power to send their letters of attorney to England within six months of the date fixed for the election of members of the Board for the management of the affairs of India. It should, however, your petitioners think, be made a rule that proprietors of stock of either description who hold office under Government should not be allowed to vote during their incumbency.

8. *The Government of India.*—That the constitution of the Government of India is calculated to prevent due attention being given to the internal administration. It is at present employed about the political and military concerns of a vast empire, in legislating for the several Presidencies, and making arrangements for and governing the newly-acquired territories, and in exercising a general supervision over the acts and proceedings of the several subordinate governors and other authorities. The Governor-general, or in his absence from the seat of Government, one of the members of Council, has also the immediate charge of the Government of Bengal. Duties so multifarious cannot be satisfactorily performed; and, as political and military matters claim primary consideration, all that concerns legislation and the civil administration is treated as matter of very secondary importance. Your petitioners are therefore of opinion that, to ensure the well-being and good government of these extensive territories, the functions of the Supreme Government should be limited to the objects which more appropriately belong to it,—namely, the disposal of political and military affairs, a control over the governors of the several Presidencies, and a veto on the laws proposed by a legislative council specially appointed. The Supreme Council may consist of three members, immediately appointed by the board of management from among persons who have been employed in the civil departments, or otherwise have had local experience; and the Commander-in-Chief may be an extraordinary member thereof, but having a voice only as to military and political questions.

9. *Relations of the Governor-general with the Council.*—That your petitioners are humbly of opinion that both experience and expediency require a modification of sections 49 and 70 of the Charter Act. The former, by authorising the Governor-general to act on his own responsibility, contrary to the opinions of the Council, practically invests him with absolute power. Such power, if given at all to an individual, should be confined to extreme cases; and the occasions on which it may be exercised should be accurately defined. The authority conveyed by the latter section to the Governor-general to go to any part of the country without the council in effect nullifies the design of appointing such a body, and at the same time furnishes him with a motive for leaving the seat of government, to the detriment of public business.

10. *Legislative Council.*—That the union of political or executive power with the legislative is not only anomalous in itself, but pregnant with injury to the interests of the people. It prevents sufficient attention being paid to the internal administration, so that the most important measure which are pressed on the attention of the Government either receive a superficial consideration or are postponed for indefinite periods. On the other hand, the interests

interests of the Government, or considerations connected with the Court of Directors or the objects of their patronage, are attended to as matters of primary importance, to the neglect or prejudice of the interests of the people, who have no direct mode of representing their sentiments to their rulers, and no reason to be satisfied that their representations will produce their due effect. Your petitioners therefore submit that the legislature of India should be a body not only distinct from the persons in whom the political and executive powers are vested, but also possessing a popular character, so as in some respects to represent the sentiments of the people, and to be so looked upon by them.

11. *Laws are now made by the Executive.*—That it is an unprecedented circumstance that, though the natives of India have for the best part of a century been subjects of the Crown of Great Britain, they have not to this day been admitted to the smallest share in the administration of the affairs of their country, but have continued under a government that unites in itself the legislative and executive functions, and avails itself of those powers to make such laws as may subserve its own financial purposes, often without reference to the interests and wishes of the people. It is known to your Honourable House that, from the commencement of that Government, the power of making laws and raising taxes has been exclusively in the hands of the Governor-general in Council, appointed by the Court of Directors; and that, till within a few years, the people knew nothing of the intention to pass laws till after they had been passed, and translations sent to the courts in the interior; and that though at present it is the practice to publish drafts of intended laws, yet, as there are no organized bodies to take their provisions into consideration, such publication is in almost all cases wholly insufficient. Moreover, the deliberations of the legislature are carried on with closed doors, and the people have no opportunity either of learning the grounds on which the laws are enacted, or of being heard by counsel, when desirous of submitting their remonstrances.

12. *No attention paid to Remonstrances.*—That not only are laws enacted without reference to the people, but they are enforced against the strongest complaints and remonstrances. Thus, in violation of the pledge given by the Regulation XIX. of 1793, "that the claims of the public (meaning the Government) on their lands, provided they register the grants as required, shall be tried in the courts of judicature, that no such exempted lands may be adjudged to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree," a new species of court was created by the Regulation III. of 1828, which was presided over by collectors of revenue officers who were in every respect unqualified for the judicial office, but whose orders, when confirmed by one or more of the special commissioners, another special tribune at the same time erected, where declared to be final, contrary to the meaning and intent of the 21st section of 21 Geo. III. chapter 70. But, though several petitions were at the time presented to the Government from several parts of the country, complaining of the innovation as well as of the hardship of the resumption proceedings, which were carried on under the orders of the Government, no attention was paid to them, nor was any explanation vouchsafed as to the grounds of the law or the justice of the proceedings. From the Appendix to the Report from the Select Committee of your Honourable House, on the affairs of the East India Company, printed in 1832, your petitioners find that the Government, in reporting on the subject on the 23rd February 1830, to the Court of Directors, "to whom alone," as they state, "they felt it incumbent on them fully to explain the grounds of their proceedings," remarked, "that to object to the inquiry and award of the collector on the ground that he is a Government officer, and must therefore be a partial judge, was a mere prejudice." The Court of Directors, in their reply of the 28th September 1831, your petitioners find, informed the Government that, after full consideration, they had "come to the conclusion that collectors should not be the judges in resumption questions;" but they gave no orders to rescind the objectionable law. From these facts, which are especially alluded to because the proceedings of the authorities therein have been published, it will be apparent to your Honourable House, that even the power given to the Court of Directors to disallow laws passed by the Government, is inefficacious even as regards such laws as are contrary to all sound rules of policy.

13. That, as a further example of the inattention of the Government to remonstrances, even when violating (to use the terms of the Charter Act of 1813) "the principles of the British Government on which the natives of India have hitherto relied for the free exercise of their religion," your petitioners refer to the Act XXI. of 1850, which, under the guise of extending the principle of section 9, Regulation VII. of 1832 of the Bengal code to the other presidencies, the provisions of which had never come into operation, alters the rules of inheritance of the people of this country, which are well known to be based upon their religious tenets, by allowing persons excluded from caste, whether on account of immoral or infamous conduct or of change of religion, to inherit contrary to the express rules of the Hindoo law. On learning the intentions of the Government many of the people of Bengal and Madras united to remonstrate against it, on the ground of the guarantee given them that their laws and customs should be respected, and of its being the tendency if not the design of the intended law to facilitate proselytism to other religions. But these remonstrances were not even noticed by the Government, although sound policy and the positive pledges given to the people required that no alteration should be made in the rules of inheritance without their consent, especially when it could not be asserted that any public inconvenience had attended the operation of those rules.

14. *Plan of a Legislative Council.*—That, for these and other reasons too numerous to be detailed, your petitioners consider the power of making laws and raising taxes conferred exclusively on the Governor-general in Council to be impolitic as well as unjust to the native subjects of the British Crown, even with the reservation of the power of disallowing laws made by them which has been vested by the Charter Act in the Court of Directors. Hence they are desirous that the legislature of British India be placed on the footing of those enjoyed by most of the colonies of Her Majesty, and that legislation be carried on with open doors, so that the people may have full knowledge of the proceedings, and an assurance that their wants and interests will not fail to be cared for. They accordingly submit for the consideration of your Honourable House the propriety of constituting a Legislative Council at Calcutta, composed of seven members, three selected from among the most respectable and qualified native inhabitants of each Presidency, to represent the natives thereof: one member appointed by the governor of each Presidency from among the senior civil officers on its establishment, to represent the interests of the Government; and one member appointed by the Crown, in the same manner as the fourth ordinary member of Council is now appointed, who shall be a man of legal education, and preside over the Council. The members of the Council should continue in office for five years, during which time they should hold no other office under Government. To ensure their acting independently of the influence of the Government, they should not be removeable even by the Crown, as, under section 74 of the Charter Act, the servants of the Company are removable at will by the Crown; but any member who may be accused of misconduct may be liable to prosecution in the Criminal Court. The members shall receive, during their continuance in office, honorary distinctions, such as are given to members of legislative bodies in Great Britain and the Colonies, besides a reasonable salary. Until the people are considered qualified to exercise the right of electing their own delegates to the Legislative Council, the native members may be nominated by the Governor-general in communication with the governors of the several Presidencies; but certain rules may at the same time be framed, by which the people of any presidency or province may have the power of objecting, on specified grounds, to any appointment so made, for which purpose the appointments should be notified in the English and vernacular gazettes of the Presidencies. The Law Commission, which was established by sections 53, 54, and 55, of the Charter Act, should be abolished, as the purposes for which it was appointed will be fulfilled by a Legislative Council formed on the comprehensive basis herein suggested.

15. *Powers of the Legislative Council and the Supreme Council.*—That in the event of the formation of a Legislative Council, distinct from and independent of the executive, being approved of by your Honourable House, your petitioners submit that that body should have the same powers, in regard to the proposing, making, and cancelling of laws as are now vested in the Governor-general and the four ordinary members of Council, but that the laws framed by them should be submitted to the Supreme Government for confirmation. The Governor-general in Council and the Governors of the Presidencies, as well as any portion of the people by petition, should have the power of proposing drafts of laws to the Legislative Council, in the manner and on the conditions prescribed with respect to governors by section 66 of the Charter Act; that is to say, that the authorities named may propose drafts or projects of laws, with their reasons for proposing the same, and that the Legislative Council shall take the same and such reasons into consideration, and communicate their resolutions thereon to the authorities by whom the same shall have been proposed. The laws which may be framed by the Legislative Council should be submitted to the Supreme Council, with all the documents on which they may be based, or which may elucidate their object and tendency, and should receive the early attention of that Council; and, as all the preliminary enquiries will have been made by the Legislative Council, and great weight will be due to their opinions as representing the interests of the whole community, it will not be improper to require that the Governor-general in Council should communicate his sentiments thereon, within three months from the time they are submitted to him; or that on the lapse of that period his concurrence should be implied, except in the case of his previously informing the Legislative Council of his inability to come to a conclusion within that period. Whenever the laws so framed and submitted are disallowed by the Governor-general in Council the grounds of disallowance are to be communicated to the Legislative Council, and that body are to have liberty to move the Imperial Parliament to pass the laws in question.

16. *Control of Parliament.*—That the power conferred on the Court of Directors by section 44 of the Charter Act, to rescind any laws passed by the present Legislative Council, is inconsistent with the independence and dignity of a legislative body. Your petitioners submit that such power should in any case be taken away, and that the laws framed by the Legislative Council and approved by the Supreme Council, on the plan above suggested, should not be liable to repeal or alteration save by the paramount authority of Parliament. But if any Bill be brought in Parliament to repeal any Act of the legislature of India, or make a new law on any point affecting the inhabitants of India, twelve months' notice thereof should be given, to allow the Legislative Council, or any portion of the people, to take measures for being heard by counsel at the bar of both Houses on the subject of the Bill.

17. *Declaration of Non-interference with Religion of the Natives.*—That your petitioners take this opportunity to submit to the consideration of your Honourable House the propriety of embodying in the Act which may be passed for the regulation of the affairs of India

India a declaration that the use of their religious laws and institutions is guaranteed to the natives, and that no laws subversive thereof shall at any time be passed by the local legislature or the Imperial Parliament, unless they be in consonance with the general feelings of the natives themselves. Your petitioners have had reason hitherto to be satisfied as to the consideration entertained by Parliament towards the religion of the natives, an instance of which is to be found in the instruction contained in the 85th section of the Charter Act, to provide with all convenient speed for the protection of the natives of the territories thrown open to Europeans "from insult and outrage in their persons, religions or opinions." But so far from that instruction being complied with, the local legislature have, as already set forth, endeavoured to set aside laws founded on the sacred books, both of Hindoos and Mahomedans, and turned a deaf ear to the remonstrances which have been offered by large bodies of the former religious persuasion. Your petitioners are aware that a declaration made in the present day will not hinder a subsequent Parliament, if so minded, from passing a law contrary thereto; but they are also aware that when the rights of the people of England have been endangered, declaratory statutes (of which the petition of right is a signal instance) have over and over been had recourse to, and have been found to be highly valuable for the assertion and maintenance of those rights.

18. *Local Governors.*—That the appointment of the Governor-general to be also Governor of Bengal, and in his absence a member of Council to be Deputy-governor thereof, is very disadvantageous to the public interests. The Governor-general being usually a person without any Indian experience, and the Deputy-governor having in more than one instance been a military officer without experience in civil business and the peculiar revenue and judicial systems of the country, and having no councillors to supply their deficiencies as to local matters, have necessarily been dependent to a certain extent upon the secretaries. On the other hand the administration of the government of Agra has in more than one instance been conducted in a satisfactory manner, in consequence to a certain extent of their Indian experience, by governors without a council; while the affairs of the Presidencies of Madras and Bombay, under governors who generally come to their governments unacquainted with the state of the country and the institutions of the people, and are compelled to rely on the aid of highly-paid councillors, are not more satisfactorily conducted than those of Agra. Your petitioners, with reference to these facts, submit that the public service will be best promoted by providing that each Presidency should be under the management of a separate governor, but without councillors; that neither the Governor-general, nor any member of the Supreme Council, should in any way participate in the government of any Presidency, or any other portion of territory, and that the governors should be selected by the Board of Management from among the ablest civil officers of their Presidencies to which they are appointed, or other persons of suitable qualifications and local experience, due care being taken to supply vacancies by making provisional appointments. Your petitioners also submit that to such government there should be a secretary, qualified by his knowledge and experience in the revenue and judicial departments to give useful advice to the Governor, whom it should be the duty of the Governor to consult, and who should be required to offer his opinion in writing to the Governor in all matters; that in all important cases in which the Governor may disregard the opinion of the secretary, both of them should record their opinions for the eventual consideration of the Governor-general in Council or the Board of Management; and at that, under the secretary, there should be a sufficient number of deputies in each department.

19. *Appeals from the Governors.*—That by sections 65 and 68 of the Charter, the several governments have been placed in dependency on and subjection to the control of the Governor-general in Council; but your petitioners submit that to render that subordination of practical benefit, an appeal to the Supreme Government from the orders of the Governors should be allowed under certain limitations. On the other hand, to allow public officers to perform their duties with confidence, it should be a rule that no officer directly appointed by Government shall be removable from office except after a regular trial before a competent court for official delinquency. On the same ground your petitioners are humbly of opinion that the power vested in the Court of Directors by section 75 of the Charter Act, to dismiss their officers and servants at pleasure, should not be maintained as regards public servants in India holding civil offices by the appointment of the local governments. The power of removing a public officer ought to be exercised only on public grounds. Therefore officers of the several governments in India should not be removable by the Board for the management of the affairs of India, except upon grounds recorded by them previously to removal, and every servant so removed should have the right of appeal to the Privy Council.

20. *Economy in the Public Service.*—That all improvements in the administration, however urgently called for, are now postponed on the ground of insufficiency of resources. It is also generally admitted by all persons qualified to judge of the subject, that the higher offices in India are too highly paid, but the lower ones very inadequately. Your petitioners submit therefore, without raising any question as to the method in which the revenues of the country are applied, although such question is not unworthy the attention of your Honourable House, that there should be a reduction of the salaries of the higher offices, and that the saving thereby effected should, in part, be applied to the increase of the allowances of the lower, which are confessedly inadequate to their duties and responsibilities, and in part to those improvements which the condition of the country has long demanded

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at the hands of its rulers. The salaries of the Governor-general, the members of Council, the local governors, and the principal covenanted officers, are on an exorbitant scale, and susceptible of great reduction without impairing the efficiency of the service. The Governor-general, in addition to his munificent salary, has all his travelling expenses, to an enormous amount, paid out of the public treasury, without control or responsibility. Such a state of things may fairly be thought to operate as an inducement to the individual holding the office to leave the seat of Government without sufficient reason. It seems, therefore, expedient that the Governor-general should not have his travelling expenses paid out of the treasury without limit or restriction, but according to fixed rules, and that such allowance should be granted only when it may appear from a resolution of the members of Council that his presence is required by the exigencies of the State, at a distance from the seat of Government. Much public treasure is also expended, without any corresponding advantage, in paying extravagant salaries to residents in the courts of the princes of India, and other political officers, and to a large staff of assistants, and in granting large allowances to those officers for keeping a table and other useless purposes. As the inhabitants of the country who contribute towards the revenue which is thus lavishly expended derive no benefit therefrom, it is just and proper that the opportunity should be taken to introduce an unsparing economy in these and other branches of the public services, and to apply the proceeds to those public works which may promote free intercourse between distant places and facilitate the transport of merchandize to the farthest extremities of the British dominions.

21. *The Civil Service.*—That section 103 of the Charter Act declares it to be "expedient to provide for the due qualification of persons to be employed in the civil service of the Company;" but the only provision which it makes for fulfilling the purpose consists in regulating the number of candidates to be admitted into Haileybury College, and the number of students of the college who, after passing "an examination in the studies prosecuted in the said college," shall be "nominated to supply the vacancies in the civil establishments in India." No provision was made for giving public employments to any other description of persons, however qualified by their ability and local experience, and from the want of it the people were left to understand that the declaration in section 87 of the Charter Act was merely nominal, and that the natives of the soil who under former Governments were without distinction admitted to the highest posts, were ineligible for public office under the British rule. It is, however, acknowledged by most persons in India who are competent to judge, and not biassed by interested motives, that the present mode of filling the most important of public offices is prejudicial to the interests of good government, and incapable of improvement except by a radical change in the system. The civil servants selected by the Directors are sent out to this country before their capacity can be ascertained; the education they receive in England is insufficient to fit them for the various offices they are destined to fill; they are posted to important offices at an extremely early age, without the certainty, without even a reasonable probability, of their possessing the requisite qualifications; they are removed from one office to another of a dissimilar kind, and from one province to another, different in respect to language and people, without being afforded opportunity to acquire sufficient experience; the certainty that they are to be provided for and even promoted by seniority or home influence, renders some of them indisposed to qualify themselves by diligent study of the laws and regulations, and the customs and manners of the natives; their inexperience and official inaptitude lead many to depend, to a late period of their public career, on their ill-paid ministerial officers; their peculiar advantages and connexion with each other by birth or marriages, lead them frequently to regard themselves as a distinct and privileged class, and to treat the other classes of the community with arrogance and harshness, and support each other's errors and defaults; the charges preferred against them for corruption or official misconduct are not investigated in a public manner, or by a tribunal in whose impartiality the public have confidence, but, on the contrary, the general impression is, that the preferring of charges is as much as possible discouraged; they are not liable to personal prosecution in the Company's courts for acts of injustice and oppression, and the Government have endeavoured to shield them from the consequences of prosecutions in Her Majesty's courts, by declaring, in the terms of Act XVIII. of 1850, that they are not to be held responsible if they believed themselves to have acted in their official capacity. The punishment inflicted on them by the Government for the grossest irregularities and faults are almost nominal, and in most cases officers removed from one department, in consequence of misconduct, are merely transferred to another. There are, of course, many bright exceptions among the civil servants of the Company to the general description here given. Many of them would do honour to any service both in point of ability and of conscientious discharge of duty. But your petitioners are speaking of the system which admits of the evils they are pointing out. Your petitioners are therefore of opinion that the College of Haileybury, which is maintained for the education of civil servants, should be broken up, as an institution in no respect fulfilling the objects for which it was established, or, if maintained, that it should be made self-supporting; that if any portion of the patronage to officers in India is, for any reasons which may appear sufficient to your Honourable House, to be continued in the future Board for the management of the affairs of India, it should be rendered conditional on the selection of persons of unquestionable fitness and capacity; that the rest of the offices in the country should be thrown open to the natives on the same condition, and that promotions should be made by the local governments without respect to distinctions of covenanted

nanted or uncovenanted, European or native, but solely with reference to the talents and qualifications of the parties, and thus effectually carry into effect the intentions of Parliament expressed in the 87th section of the Charter Act.

22. That your petitioners submit that not more than a moiety of the patronage should be vested in the Board for the management of the affairs of India, exclusive of appointments of Governor-generals, Governors of Presidencies, Members of the Supreme Council, and military and naval officers; and that the other moiety should be assigned to the governors of the several Presidencies, for the benefit, with some exceptions, of the natives, without reference to descent or creed. It should be provided, however, that instead of selecting youths, whose character and abilities are not sufficiently developed, and who are afterwards to enter college to prosecute studies which are deemed necessary to qualify them for office, the Board of Management and the Governors shall be at liberty to select those persons who have obtained a suitable education at their own expense, at any establishment which they may prefer, and who have given evidence of their proficiency, by undergoing such examination as it may be determined to prescribe. By thus throwing open public offices to public competition by British youths in the United Kingdom, and by native youths in India, the expense of educating young men for public offices will be avoided; the temptation which now exists to confer patronage on grounds of family connections, friendship, or obligations, will be taken away, and suitable persons will be chosen for offices being provided for men. Moreover, instead of providing for one examination as to fitness for admission into college, and another as to qualifications acquired there, which examinations are practically found to be (as it is generally supposed, by reason of private interests) more nominal than useful, it will be necessary to have one set of examiners in England and one in India, and the test of qualification may be made as rigid as can be desired. Nor can it be alleged that many educational establishments will not be found in England and India adapted to qualify young men for public service, by imparting to them education of the requisite standard; a fact which itself demonstrates the inexpediency of maintaining, at a great expense, the college of Haileybury. Such a system of public competition for admission into the civil establishments of India being established, the Board of Management may select, out of the candidates who pass a public examination in England, the number of persons they have the privilege of nominating, and such persons should, on passing an examination in India in the vernacular languages, be eligible to the higher offices, with reference to their age, experience, and talents, in common with those who have hitherto been sent out under covenants. In the same manner the several governors should have the right to select, out of the natives who are declared eligible after examination in India, the number they are entitled to appoint. The selection of the governors should be confined, except in special cases, to the natives; because, if a latitude is given, the result will be, that the preference will, for the most part, be given on other considerations than merit, and the selection of natives will form merely an exception to the general rule. To provide for special cases, the Governors may be authorized whenever they see need to select for the higher offices others than natives, after they have undergone the examination prescribed; and whenever such special appointments are made, it should rest with the Board of Management to confirm them or not, according as they are satisfied as to the validity of the grounds recorded by the Governors for departing from the general rule. It should, however, be distinctly provided, that the salaries of Europeans and natives who are appointed after passing the prescribed examination should be equal, and the two classes should be in every respect on a footing of equality. It may be advanced that the natives, who are in their own country, do not require to be paid so highly as those who are sent out from the United Kingdom; and indeed this is the principle acted upon by the local governments, in pursuance, no doubt, of the instructions laid down for their guidance. But a proposal to lower or raise the salary of an office, according as it is to be enjoyed by a person from the north or the south of Great Britain, would justly be considered both absurd and invidious, and the adoption of it would be especially impolitic in India, where it could not but have the effect of perpetuating distinctions between Europeans and natives, and introducing all the injurious consequences incident to distinctions of colour and creed.

23. That, it being essential to the good government of the country, as already set forth, that full effect should be given to the provision of Section 87 of the Charter, that all offices shall be open to all persons, without distinction of caste, colour, or creed, your petitioners submit that the distinctions of covenanted and uncovenanted should at once be abolished so far as may be consistent with the present arrangements, and with the rights which may be considered to belong to those who have been sent to India under covenants. The enactment of the rule just cited is a proof that the civil servants now on the establishment cannot claim the right to be appointed or promoted to particular offices, and that, without injury to their rights, any persons not of that service may be appointed to any offices for which they may be qualified. And your petitioners desire merely this, that appointments and promotions should be dependent strictly on qualification and merit; so that, on an office being vacant, such person only should be appointed to it as may be judged best deserving, whether he be a member of the civil service, or a person who has been selected after examination in England or India, or a person who has qualified himself by serving in any subordinate capacity. The same end may be effected by placing civil servants and other servants, as far as practicable, under the same rules in regard to their tenure of office and privileges, such as leave of absence and so forth. The distinctions at present existing on these points are as marked as they are unjust, such as that the covenanted servant cannot be

be dismissed without trial by a commission, while the uncovenanted may be removed without any proved misconduct, on the mere report or the pleasure of his superior officer; and that the covenanted officer should be allowed opportunity to recruit his health with small loss of salary, but the uncovenanted, in most cases, only on the condition of giving up his post. From the abolition of such distinctions your petitioners expect the most important benefits to India, not only as the means of imparting a healthy tone to all classes of public officers, but as the germ of freedom and independence among all ranks of the people. Keeping these circumstances in view, your petitioners have entered into details which they would not otherwise have obtruded on the attention of your Honourable House; and with reference thereto they would add, that persons who pass a successful examination in this country, but fail to be selected by the Government for the higher posts, within three years from the date of examination, should undergo a second examination to become again eligible for the higher posts, but they may be furnished with diplomas which shall entitle them to a preference over other untried candidates, in obtaining any inferior situations which they may apply for; thus provision will be made for filling superior as well as inferior offices, with duly qualified persons, who shall have constantly before them motives for further improvement in the prospect held out to all, without exception, of rising to the very highest dignities.

24. That the Company's courts are not so constituted as to render substantial justice to the natives, or afford them a just confidence as to security of life and property. It is a cause of further dissatisfaction that there should be one court especially for the Europeans, of which the judges are selected from among persons who have given proof of their legal fitness, and the advocates are persons who have undergone a course of legal training, and another court for the natives generally, of which the judges have no legal knowledge or experience before their appointment, and the pleaders are very insufficiently qualified for their important duties. That dissatisfaction is aggravated by the facts that a special exception is made by Section 46 of the Charter Act against granting to any of the Company's courts the power of life and death over British subjects, while the lives of natives are freely placed at the disposal of courts clearly implied to be ill-constituted; that, while owing to the numerous reforms required in the laws and forms of judicial procedure in this country, the objections of British subjects to the Company's courts and Company's judges have been allowed, those courts and judges should be deemed quite good enough for them; and that, out of the large revenues which are yielded by the proceeds of their labour, a sufficient sum should not be appropriated towards rendering the courts really capable of affording them justice. Without desiring that British subjects should, by being subject to the local courts, be deprived of the benefit of good laws, administered by qualified judges and juries of their countrymen, your petitioners humbly conceive that there should be equal laws and good courts for all classes of Her Majesty's subjects, without exception, and not one set of laws and courts for British subjects, and another set of laws and courts for natives. The appointment of a law commission, under the 53d Section of the Charter Act, with the view that a general system of judicial establishments and police, to which all persons whatsoever, as well Europeans as natives, may be subject, should be established in these territories at an early period, has been wholly inefficacious, and the commission has, consequently, been for many years in abeyance. The instructions contained in the 82d and four following Sections of the Charter Act, to provide against any mischiefs or dangers that may arise from the free admission of Europeans into the territories administered by the Company, have also been inoperative; for, although by an Act of the local Legislature (IV. of 1837) it is declared that Europeans shall be subject to the laws under which natives acquire and hold property in land, it has been found that the penalties to which the latter are subject do not apply to the former, in consequence of their exemption from the criminal law of the country; so, that while a native proprietor of land is punished by the magistrate, his European co-sharer in the same estate cannot be visited with any punishment.

25. That the civil courts of the country are composed of two classes, namely, those to which natives are usually appointed as judges, and those to which European civil servants are exclusively appointed. The highest grade of native judges, styled Principal Sudder Ameens, receive salaries (400 rupees per month, and in special cases 600) not greater than are commonly given to clerks in public and private offices, and without any prospect of promotion to a higher office, but are vested with power to try all civil suits for property of any amount, and also to hear appeals from the decisions of the lower courts. The civil servant is appointed on a salary of at least 2,000 rupees a month, with a prospect of rising to the highest posts, and is expected almost exclusively to decide those appeals which involve a value not exceeding 5,000 rupees: being selected to be the judge of an appellate court without having acquired any experience of judicial business, or any knowledge of the forms of the lower courts, his decisions, whether passed under the dictation of the ministerial officers, or in accordance with his own notions, are devoid of weight. But while the decisions of experienced native judges are liable to be reversed by a single European judge, without any judicial experience, the decisions of the same judges regarding property of a higher value than that above-mentioned, are appealable to the Sudder Dewanny Adawlut, and cannot be reversed without the concurrent opinions of two judges of that court. The decisions of that court, as exhibited in their printed reports, show that from 1845 to 1851, out of 2,667 appeals heard from the decisions of covenanted and uncovenanted judges, the decisions of the covenanted judges were confirmed in 215 instances, reversed in 167, and remained for further investigation in 683; while those of the uncovenanted

venanted judges were confirmed in 559 instances, reversed in 238, and remanded in 667 instances; from which your Honourable House will perceive that, on the whole, the decisions of the uncovenanted were more satisfactory to the Sudder Court than those of the covenanted; and that nothing can be more anomalous than the position in rank and emolument which the two classes occupy.

26. That the criminal courts of the Company are those of the magistrates and the sessions judges. The former act in the double capacity of superintendents of police, and judges of cases not liable to a sentence exceeding three years' imprisonment. In the former capacity they have been acknowledged by their superiors to have a strong leaning towards the conviction of those who are brought before them. In the latter, they are authorised in certain cases even to adjudge imprisonment and fine without appeal; and in general they exercise, according to the admissions of high authorities, powers which are not committed to magistrates in any civilised country, and for which they are disqualified by their youth and inexperience. Commitments made by them are tried by the sessions judge, with the aid of assessors, composed at his option of a Mahomedan law officer or two or more natives. The opinion of the law officer cannot be set aside, except by the Nizamut Adawlut; but when other assessors are employed, the decision rests exclusively with the session judge. Cases involving capital punishment, and some others, are referred to the Nizamut Adawlut, and appeals from the sentences passed by the session judges are also heard by that court. It will be evident to your Honourable House, that when the trials have been held in the first instance before an officer not sufficiently qualified for the duties of his high office, without any of the securities to be found in the verdict of a jury, or even the presence of advocates qualified to act as a check on the judge, the transfer of the record of trial to a distant court, the judges of which, for the most part, hear the records, which are in a foreign language, read to them either in their private dwellings, or in court, cannot in any manner supply, but must rather increase the defects of the original trial. Nor can the people of this country understand, when every Britain is entitled to be tried by a jury of his peers, why they should not enjoy the same privilege.

27. *Union of Supreme and Sudder Court.*—That, for these and other reasons, your petitioners are desirous that both the civil and criminal courts of the country should be remodelled, and that, instead of the numerous complicated and defective systems, there should be courts guided by uniform rules of procedure, presided over by judges qualified by education and legal abilities, and having full authority over all classes of persons without exception. To this end your petitioners submit that the Sudder Court and the Supreme Court should be amalgamated as soon as possible; and that courts shou'd be formed on the same principle for every district, having the same rules of procedure, with jurisdiction over all classes of the inhabitants, both at the Presidency towns and in the country. The local laws should be the guide of the new courts, except as to questions of marriage, inheritance, and so forth, in regard to which the laws of the parties should be followed as heretofore. The courts formed on the principal alluded to at the Presidency towns should be courts for the hearing of appeals from the lower courts, and for controlling the proceedings of those courts. In the same towns civil courts of first instance should be established under single judges, which should also be courts of sessions, in which trials should be held with the aid of juries. At Agra, where, though the seat of the new Presidency, there is no Queen's court, a chief court should be established, similar to the new courts at the Presidency towns, consisting of a number of judges of the Sudder and one judge on the part of the Crown. In framing rules for it, the technicalities of the English law should be avoided. Its proceedings should, as far as practicable, be in the vernacular language. As the wants of the judges of the Sudder Court at Calcutta are supplied by translators, who prepare English translations of the vernacular pleadings, so additional translators may be employed to facilitate a knowledge of such pleadings by the judges of the new court, so as to relieve suitors from the expense of preparing pleadings in English, until, in course of time, judges can be found who are familiarly acquainted with the languages of the people. Oral pleadings may be carried on in English or the vernacular, according as the pleaders employed are conversant with either language, following herein the rule which has been introduced since the admission of barristers to plead before the Sudder Court.

28. *Courts in the Interior.*—That, for the districts in each Presidency, it is expedient to remodel the civil and criminal courts to promote their efficiency, and render them capable of affording justice to all classes. For the present, and with a view not to entail much expense at the outset, three grades of judges and courts may be established, having both civil and criminal jurisdiction, Moonsiffs, Principal Sudder Ameens, and Judges. The moonsiffs should have jurisdiction in civil suits, but extended from the present limit of 300 to 1,000 rupees, and, on the criminal side, they should be empowered to try misdemeanors and petty felonies, and to commit to the sessions cases beyond their competency to try. Their salaries should be raised so as to be adequate to their duties. They should have, according to extent of local jurisdiction, assistants selected from diploma holders, on a sufficient salary, including travelling charges, who should be employed in the preparation of cases, and in holding local inquiries in the place of ameens, officers who are now employed in such duties. The commission which is paid to these may be carried to the credit of Government. The assistants will thus qualify themselves for judicial duties, and shou'd be considered entitled to promotion after three years' service in the lower capacity. The principal sudder ameens should have jurisdiction, as at present, in all original suits for an amount exceeding 1,000 rupees. The salary of the office should be made proportionate to its

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29. *The Police and Magistracy.*—That the police of the country has always been in a state not at all creditable to an enlightened Government, and has indeed been acknowledged by the servants of Government to be "as bad as bad can be." The Court of Directors have, it is true, expressed themselves solicitous of the improvement of the police at any cost, but their solicitude has been without any effect. The Government, on appointing a police committee in 1837 to hold inquiries on the subject, strictly prohibited the suggestion of any reforms which should involve any great increase of expenditure. From that date to this no reforms have been attempted beyond the appointment of a few deputy magistrates, and very recently of a commissioner for the suppression of dacoity, who has not yet entered upon the duties of his office. Hence the utmost insecurity of life and property prevails in every district, and even in the immediate vicinity of the metropolis of British India. The Government have always possessed considerable resources for forming an efficient police, derived in part from the allowances or produce of lands which had been originally assigned for the police, but were resumed by the Government with a view to be applied to their legitimate purpose, but chiefly from the produce of the stamp tax, which was expressly imposed, with the exception of certain items, for defraying the cost of the police. But out of an estimated revenue of thirty lacs of rupees so appropriable, not more than about seven lacs is actually expended on the police establishment of the whole of the lower provinces. The Government, however, instead

instead of defraying a suitable sum for the maintenance of an efficient police, have recently published the draft of a law to convert the village watchmen, who are paid for immediately by the cultivators of the soil, into servants of the State, and to make the zemindars responsible for the default of the ryots in paying their private servants, a project which cannot but result in compelling the zemindars to pay twice over for the establishment of the police. Again, the zemindars, who have no necessary connection with the police, have been arbitrarily burdened, by laws made without their knowledge or consent, with sundry duties which ought properly to be discharged by their covenanted servants, and the subordinate police officers. The imposition of these duties, without being of any benefit to the country, is converted into an instrument of annoyance to the zemindars by the magistrates and their ministerial officers, and of extortion by the darogahs. The zemindars are frequently summoned, though living at the other end of the province, to appear in presence of the magistrate to explain the cause of their not furnishing information of crimes of which they had and could have had no knowledge; and the managers of their estates are frequently fined, or even placed in duress for various alleged omissions of police duty, and in various other ways harassed by the ignorance or caprice of youthful magistrates. It has even been known that landholders residing at the distance of 50 or 60 miles from the scene of a dacoity have been fined for not following and apprehending midnight robbers. The darogahs and other officers of police are furnished by the same ill-judged laws with means of practising extortions, by employing threats to report alleged instances of neglect of duty. The insufficiency of the police arises not only from the small establishments maintained by the Government, but from the extensive jurisdiction of the magistrates, and the practice of appointing very young men to that office, and removing them to higher posts as soon as they begin to acquire experience. The extent of country which is to be travelled over to arrive at the station of the magistrate, the difficulty of obtaining access to that functionary, except through the medium of the ministerial officers, the necessity of presenting every petition in writing, and on a stamped paper of the value of half a rupee, about four times the value of a labourer's daily wages), combine to render it a matter of impossibility to the poorer classes to obtain justice from the criminal courts. The large powers vested in the darogahs are liable to abuse, owing to the insufficient remuneration they receive, and the difficulty of exercising proper control over them. Their entrances into villages to trace out the perpetrators of heinous offences, or discover property alleged to be stolen, are regarded by the people as visitations. The fact is so notorious, that the Government have found it necessary to pass a law, the Regulation II. of 1832, to prevent the Darogahs from investigating any cases of burglary, unless expressly desired by the party injured, or directed by the magistrate. Hence it is difficult adequately to represent to your Honourable House the actual situation of the poor in the interior, in consequence of the badness of the police system, since those who are most exposed to the attacks of the powerful and the lawless have most to dread the exactions of the officers of police, many of whom are actually in the pay of the rich, while some have been convicted of practising torture to obtain their ends.

30. That, to remedy such a state of things, it is urgently required that a suitable augmentation of the police be made for the repression of dacoity and other crimes attended with violence, as well as that a sufficient number of magisterial officers, unencumbered with extraneous duties, be attached to every district. With reference to the increase of a sufficient police force, your petitioners desire to bring to the notice of your Honourable House, as a most anomalous circumstance, that, according to the return printed by authority, whilst the highest annual cost of the police of Bengal, which yields a larger revenue and is more populous, was 10,24,142 rupees, the lowest annual expense incurred on the same account in the North-western Provinces was 17,30,000 rupees, and the highest 26,94,616 rupees. But, whatever may be the requirements of the new Presidency in this respect, your petitioners submit that a certain amount of the revenue expressly raised for the police should be spent for that purpose. The present system of village watch, which is entirely supported at the cost of the ryots, is capable of being used as an auxiliary to the Government police; but the arrangements which may be considered necessary to adapt it to that end should be introduced with the approbation of the people generally, and without destroying the municipal character of the institution. Changes are also required in the office of the magistrate and his subordinates. The office of superintendent of police for the whole of the lower provinces is inadequate to fulfil the objects for which it was re-instituted. The magistrates should perform the duty within their respective districts, but should have no judicial duties to perform. The office should also be everywhere separate from that of collector of revenue. At present a darogah is placed over a large extent of country, termed a thanna, but the arrangement is in many respects objectionable. The thannas should be broken up into a sufficient number of stations, with a jemadar and a certain number of burkundazes at each, according to local circumstances. A deputy magistrate should be placed over every two of the present thanna jurisdictions. The deputy magistrates should make the preliminary inquiry into every charge, and refer misdemeanors and petty felonies to the Moonsiffs' Court for trial. Cases which appear to involve heinous crimes should be sent to the magistrates, who, if agreeing in the opinion of the deputy, should commit them to the sessions for trial. Cases referred to the moonsiff, which may be discovered by him to be of a heinous nature, should be committed by him to the sessions through the magistrate. The magistrates should be exclusively under the control of the Government, as now, with regard to police duties, jails, &c. It has been stated before that the magistrates act without being amenable to any tribunal for their irregularities. Your petitioners therefore submit that the magistrates and

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and their deputies should be liable for acts beyond their jurisdiction, and for undue exercise of authority, to actions for damages, which should be tried before the judge and the junior judge, with the aid of a jury. The proceedings of those officers should also be liable to be brought before the sessions courts by a writ of certiorari or other analogous proceeding.

31. *Monopolies.*—That the monopoly of the salt trade by the Company injuriously affects the poor, particularly those who inhabit the districts where only that manufacture can be advantageously carried on, as it interferes with their freedom of action, and prevents saline lands, which are unfit for cultivation, from being appropriated by the owners to the manufacture of salt. Even the zemindars of such places are liable to severe fines if unauthorised manufactures of salt are discovered on their estates, though unknown to them, so that they are compelled to act as revenue guards. A single zemindar has been known to be fined as much as 12,000 rupees at once. The selling price of salt is arbitrarily fixed by the Government, and is at all times so high that, though the country has abundant resources for the manufacture of the article, English merchants can afford to import it. The dearness of the article induces even those who live near the salt manufactures to use earth scraped from salt lands, while those who reside in the interior, have recourse to the alkali found in the ashes of burnt vegetables. The officers employed in the salt department are vested with judicial powers contrary to all principles of justice and policy, and necessarily employ them very irregularly and vexatiously. The subordinate officers are furnished with opportunities, on pretence of preventing smuggling, of harassing the carriers of salt and the refiners of saltpetre. Your petitioners are of opinion that, among other reforms required in this department, it is desirable that the Government, if they cannot immediately afford to forego so odious a source of revenue, should fix an unvarying rate of impost on the manufacture of salt, say 200 rupees on every 100 maunds, whereby not only the poor will be greatly benefited, but the laws will be rid of the anomaly of judicial excisemen and the traders of the harassment caused by the subordinate officers of salt chowkees. But as salt is a necessary of life the duty on salt should be entirely taken off as soon as possible. The monopoly of the opium trade is not injurious to the country, so far as regards the revenue realised by the Government, as the monopoly price is ultimately paid by the consumers in China; but it is a source of vexation to the cultivators, who are compelled to cultivate the poppy and supply the produce to the Government at the valuation fixed by their own officers. Nor can it be otherwise than that the cultivators should be at a disadvantage and be liable to oppression when the other contracting party is armed with all the power and resources of the State. Justice therefore requires that the interference of the Government with the cultivation should cease, and that the revenue derived from the drug should be in the shape of fixed duties on manufacture and exportation, but principally on the latter, as is in some measure the case with regard to Malwa opium. By the adoption of this principle, the cultivators will posess that freedom of action which all men possess under governments that are not constituted on arbitrary and despotic principles; and whatever is lost by such an arrangement will be more than made up by the saving that will ensue from the abolition of the expensive establishments which are now necessary.

32. That the Abkaree duties, or revenue raised from the sale of spirituous liquors and intoxicating drugs, and the stamp duties levied, by obliging litigants and complainants to write their petitions on stamped papers, are highly objectionable in principle. The former are levied on the opening of shops for the retail of the means of intoxication, and tend to encourage the consumption of liquors and drugs by the lower classes, and the increase of all the pernicious consequences that result from it. The Government, by appointing commissioners of abkaree and a host of ambulant subordinates termed superintendents of abkaree, whose zeal for the interests of their masters is measured by the amount of revenue yielded by their respective divisions, have of late largely contributed to the deterioration of the moral and industrial character of a portion of the population. Measures so pernicious cannot be too severely condemned or too soon discontinued, even though a larger revenue were to be derived therefrom than is really the case. The legitimate purposes for which duties are imposed on the sale of liquors and drugs will be sufficiently answered by imposing them on manufacture and exportation. The stamp laws, by which the other class of duties is imposed, also require material revision. The use of stamps in judicial matters does not answer the object for which they are avowedly imposed,—namely, the diminution of litigation. On the contrary, they contribute to prolong litigation, as they involve on the courts, from the lowest to the highest, the duty of deciding points extraneous to the merits of the suits before them. For the purpose of the stamp revenue, every suit has to be valued according to certain rules laid down by the legislature, the application of which is liable to much doubt and uncertainty. Hence, questions are frequently raised as to the observance of those rules, and the decisions of the courts of first instance are subject to appeals to the higher tribunals; and many suits are nonsuited or remanded for retical merely because the amount of the stamp has not been correctly estimated, however honestly the plaintiff may have formed that estimate. In some cases, when the plaintiff would willingly forego a portion of the claim which may not stand on so clear a foundation as the rest, he is afraid to do so, lest his suit be altogether defeated by the objection that he has undervalued his claim, and that the stamp is therefore defective. The decisions of the superior court in the matter of stamps are not unvarying, and many constructions and circulars are issued to regulate the questions which arise, which are often modified or rescinded, circumstances which greatly distract and embarrass pleaders and judges in deciding such questions. And it may be fairly stated that not less than ten per cent. of the decisions of the Company's

courts

courts turn entirely on considerations connected with this most absurd and injudicious system of raising a revenue. The operation of the stamp laws is still more directly injurious to the poorer classes in their pursuit of justice. Before they can prosecute a suit of any kind, they must not only incur the ordinary expenses of other courts, but also lay out at the very outset a certain sum in the purchase of a stamped paper, which in the most trifling case is a rupee, or eight times the daily hire of a labourer. Your petitioners submit that laws of this description should not be permitted to exist. If a revenue from judicial proceedings be necessary, it may with propriety be drawn from those who maintain vexatious or groundless claims or resist just ones, by imposing on them a fine calculated on the scale of the present stamp law.

33. *Revenue Officers.*—That the system of revenue administration pursued by the Company's Government is a source of vexation to all persons who stand in any relation thereto. The laws enacted for providing for the revenue are inequitable in principle, inasmuch as they provide for the interests of the Government, without regard to those of the subjects, and forbid the interference of the courts of justice to determine the fairness of the decisions of the collectors as to the amount of revenue assessed by them. The officers of revenue are vested with multifarious powers, being authorised in some cases to act as magistrates, and also as civil judges, and thereby led at times to mingle together their fiscal and judicial functions, while many of their duties are left to be performed by irresponsible subordinates, who make use of their delegated powers to practice every species of extortion. The management of the revenue may be simplified by having, as has been recently done, but one Board for all branches of the revenue, with a sufficient number of members, both European and native, who may go into the interior on circuit by rotation, and thus do away with the office of commissioner of revenue for a number of districts, which is shown by experience to be unnecessary under the present arrangements. The Board and the collectors of revenue should be divested of all judicial powers, on the principle embodied in the preamble of the Regulation II. of 1793. The collectors of revenue should have deputies under them, according to size of district and extent of business. The salary of the office should be reduced, with reference to the relief afforded by the separation of revenue and judicial offices.

34. *Works of Utility.*—That, though the revenue raised by the Company, both from the land and from other sources, far exceeds what was drawn from the country by its Mahomedan rulers, a very inadequate portion of it is devoted to improvements in the means of land or water communication. On the contrary, the funds which are raised expressly for providing the means of such improvements, such as the ferry funds, and the tolls on rivers and canals, are usually carried to the credit of the Government. Accumulations of these funds, to the extent of several lacs, still remain in the public treasury unappropriated to their specific purposes. Your petitioners therefore submit that the funds in question at the disposal of the fund committees should be expended on local improvements, subject to the approval of Government, and also that judicial fines in the criminal department should be added to those funds. In the event of a surplus, after providing for necessary works of utility, a portion thereof may be placed at the disposal of the Government for general purposes.

35. *Education.*—That no provision has been made by the Company's Government on a suitable scale for the education of the natives. The sum authorised by Parliament to be expended on educational establishments was for years unappropriated. Since the establishment of the Committee of Public Instruction several colleges and other institutions have been established in various parts of the country, partly with the public money and partly with the aid of endowments and other funds derived from private resources. But the education of the mass of the people has as yet been completely neglected, a sufficient indication of which will be found in the fact that the total sum expended by the Government for the colleges and institutions in the Lower Provinces does not exceed rupees three lacs per annum. Your petitioners submit that the diffusion of education throughout the country should no longer be neglected. They further submit that the university plan proposed by Mr. Cameron, late President of the Committee of Public Instruction (in the Committee's Report for 1845–46), should be established in each Presidency. The plan provides for the admission of those who receive degrees in law and other departments to practise at the bar of the Supreme and Sudder Courts, and to be engineers in the Government service, and so forth; but it should be modified so as to provide for educated natives entering the medical service on the same footing with persons who have hitherto been sent out as assistant surgeons by the Court of Directors. An express rule on the subject is necessary, as it is well known that the young men educated at the Calcutta Medical College, who obtained diplomas after examination in London, failed, notwithstanding the recommendations of several eminent persons, to obtain that position in the medical service which they were entitled to from their qualifications and the declaration in the Charter Act.

36. That the provisions in section 89, and other sections of the Charter Act, for providing an ecclesiastical establishment expressly for the advantage of British subjects, are out of place among the arrangements for the government of British India. That government is for a mixed community, the members of which are of various and opposite sects, and the majority is composed of Hindoos and Mahomedans. It is, therefore, manifestly inexpedient that the Government should have any connexion with the appointment of the ministers of any religion. All sects should accordingly be left to support the ministers of their respective

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respective religions in the manner they deem most suitable. Your petitioners do no object to the appointment of chaplains to the European regiments that are sent out to thi country, as is done in the United Kingdom, nor to the appointment of a chaplain-genera in each Presidency for the government of the chaplains, but to the support of bishops and other highly-paid functionaries, out of the general revenues of the country, for the benefit of a small body of British subjects. They submit, accordingly, for the consideration of your Lordships, the expediency of discontinuing the connexion of the Government with the ecclesiastical establishment; and in order that this may be done at an early date, they suggest that the cost of these establishments be charged to those civil and military servants at each Presidency, town, or station who enjoy the benefit thereof; and that an increase be made to the allowances of those servants to enable them to meet the additional expense imposed on them by this arrangement, but without being continued to their successors, who should be left to bear this expense among others incidental to their position in this country.

Your petitioners having thus briefly enumerated the points which they deem worthy of the consideration of your Lordships, in connexion with the Charter of the East India Company, now on the eve of expiry, and which, so far as they depend on questions of fact, they are prepared to support by evidence whenever required, humbly pray that your Lordships will be pleased to make such arrangements for the government of British India as to your wisdom and justice may seem fit.

And your petitioners, as in duty bound, shall ever pray.

(signed) *Raja Radhakant Bahadur.*
Raja Kalikrishna Bahadur.
Pertaup Chunder Singh.
&c. &c. &c.

The Humble Petition and Memorial of the Armenian Inhabitants of the Bengal Presidency,

Respectfully showeth,

That the memorialists of your Honourable House are of the ancient Armenian race, the national existence of which has long been extinct, but of which individual members were the foremost to appreciate the benefits of British Government in the East.

2d. That the resort of Armenians to the British settlements in this and other parts of India was coeval with the establishment of those settlements. That the first important firman of the imperial court of Delhi in favour of the English East India Company, while it was still in its very infancy, was procured by the agency of Khojah Serhad, an Armenian of great enterprise and influence in those days. It is now a matter of history, and the connexion thus begun with a sense of mutual obligation, was cemented by an instrument of solemn compact, in the nature of a treaty, between Coja Phanoos Calendar, an eminent individual of the Armenian race, and the then Governor and Company of Merchants of England trading to the East Indies, bearing date the 22d June 1688, and ratified under the hands of the Governor and Directors, and by the common seal of the Company. The actual execution of the above instrument, a copy of which is appended, for the sake of reference, has never been questioned.

3d. That although the above compact may not possess all the binding force of an international Act, in so much as it was made with a mere individual of a race which had then no existence as a political community, yet did it continue for nearly a century to regulate the scale of duties levied on the trade of Armenian merchants at the Company's settlements and dependencies. Whether binding as a treaty or not, it must, at all events, be admitted to contain the terms publicly held out by the Company to encourage the resort and settlement of Armenians into the factories and places held by the East India Company.

4th. Your memorialists beg to draw the attention of your Honourable House to the third Article, which is as follows :—

"That they (the Armenian nation) shall have liberty to live in any of Company's cities, garrisons, or towns in India, and to buy, sell, purchase land, houses, and be capable of all civil offices and preferments, in the same manner as if they were Englishmen born; and shall always have the free and undisturbed liberty of the exercise of their own religion. And we hereby declare that we will not continue any Governor in our service that shall in any kind disturb or discountenance them in the full enjoyment of all the privileges hereby granted to them. Neither shall they pay any other greater duty in India than the Company's factors, or any other Englishmen born, do or ought to do."

5th. That upon such invitation and solemn guarantee the Armenians began and have since continued to flow in from various parts of Asia, to the haven of protection and favour thus opened to them. They have traded and tilled the earth—have become builders and proprietors—and acknowledge with gratitude the uniform protection and kindness they have received under the Company's rule. Your petitioners confidently trust that they and those

those who have preceded them have shown themselves neither unworthy of this favour nor ungrateful towards their benefactors; and that of the numberless tribes and races that have successively placed themselves within the pale of British dominion none has evinced more loyal attachment, or given less occasion for the exercise of either coercive or penal measures.

6th. That of the Armenians now settled within this Presidency the smallest section is that of such as are the issue of forefathers already settled in it before the coming of the English; a large section is composed of such as are of foreign birth, and are themselves original settlers; but the far greater proportion are those born in this Presidency, the issue of fathers or forefathers who became settlers upon the inducement above-mentioned.

7th. That many of your petitioners are possessed of large personal property, and also of large property in houses and lands within the limits of Calcutta itself, and also of talooks and zemindaries in several of the zillahs and districts of this Presidency; and that of their real property a part is the fruit of personal acquisition, but the greater part has been derived to them from fathers or forefathers by whose industry it was acquired.

8th. That, notwithstanding the existence of the above compact, a treaty with the East India Company of the year 1688, and moreover notwithstanding the assurance given by the Supreme Government in the reply of Lord Auckland, Governor-general, to their memorial presented in 1836 to take the subject of their petition into due consideration, that the condition of the Armenian inhabitants in respect to civil rights and privileges, or the position of the memorialists of your Honourable House, has not yet been in the least degree altered. That your memorialists unfortunately still labour under the disadvantage of being regarded in the courts of the Company, more especially of criminal judicature, in the same light as Hindus and Mahommedans, and subject to a system of law, if system it can be called, based upon the Mahommedan code, and modified by regulations and acts of the local legislature, but so crude and undefined as to leave nearly everything at the discretion of those who are entrusted with its interpretation, who are so often destitute of experience or sound judgment, and which is held in detestation by their more favoured fellow-subjects of British birth, who are for the most part exempt from its application, and who have on all occasions expressed the greatest disgust at every attempt to bring them within its operation.

9th. Finally, your memorialists, although so warmly and gratefully attached to the British rule, under which they have prospered now for upwards of a century and a half, and utterly unconscious of having done anything to forfeit the good opinion that prompted the flattering terms of invitation upon which Armenians became settlers in the territories of the East India Company, and have continued for upwards of a century to enjoy within the local limits of the several residencies all the consideration that a parity of civil rights with natives of Great Britain was calculated to give, find themselves deprived of these advantages when beyond the limits of those residencies, and subjected to a different system of law. Your Memorialists have no hope of remedy for this, which they cannot but consider as a serious grievance, but from the wisdom and justice of your Honourable House; to which they present their earnest prayer,—

That the inequality and grievance above stated may be taken into the serious consideration of your Honourable House on the occasion of the expected renewal of the privileges of the East India Company; and that provision may be then made to secure to your memorialists and generally to the Armenian settlers within the territories entrusted to the Government of the Honourable East India Company in British India, the full benefit of the contract made with one of their nation on behalf of himself and those of his nation, on which they and their forefathers were induced to become settlers within the Company's territories.

And the memorialists of your Honourable House, as in duty bound, will ever pray.

(signed) *A. Apcar.*
A. Carraput.
A. A. Apcar.
&c. &c. &c.

Calcutta, 10th day o January, A.D. 1853.

THE Petition of the Members of the Blackburn Commercial Association,

Respectfully showeth,

THAT, Her Majesty's Ministers having announced an intention to submit to Parliament during the present Session, some measure for the future Government of India, your petitioners are anxious to record their dissatisfaction with the limited extent of our commerce with that country, and their regret that so little progress has been made in the development of its rich and varied resources.

Appendix, No. 7.

That your petitioners are of opinion that, in any enactment for the future government of India, the following suggestions should be adopted:—

1. That it be regarded as the imperative duty of the Government of India to promote the cultivation of the soil, and to remove all obstacles which impede the progress of industry.

2. That, beyond making useful experiments, the Government should not be permitted to become cultivators, manufacturers, or traders.

3. That, in conducting their financial operations, the Government should be forbidden to become purchasers of any kind of produce on their own account, or to receive by hypothecation produce purchased by any other party.

4. That the Government be compelled to expend a portion of the revenues collected in India in the development of the resources of the country, as well as to afford every facility for its profitable occupation; that with this view such public works should be promoted as are calculated to facilitate intercourse with or improve the physical condition of the population, to increase the production of cotton and other valuable raw materials, as also to encourage a system of general industry.

5. That 10 per cent. of the revenues of India be applied to the public works above alluded to, such as the construction of trunk lines of railways, the formation and improvement of roads and bridges, the deepening and other improvement of rivers, the formation and care of reservoirs and canals, the erection of piers, and construction of harbours, breakwaters, lighthouses, and all other engineering agencies required in a civilized and commercial country.

6. That the application of the portion of revenue allotted to useful public works be under the control of a board of works, established and conducted in India, the members of which should have full, extensive, but defined powers, and be nominated jointly by the Imperial Government and the Indian Executive.

7. That the Government should give every facility for the permanent occupation of land, by removing the objections so often urged to a fluctuating land tax—by encouraging the purchase, for cultivation, of the waste and other lands of India; and by giving such certainty of tenure as will ensure the safe application of capital to the universal cultivation of the soil.

8. That prompt attention be paid to the removal of evils now existing in India, consequent upon the uncertainty of the due administration of justice, and the prevailing ignorance of the people.

9. That an annual detailed Report on all East India affairs should, as was formerly done, be laid before Parliament by a Minister of the Crown.

Your petitioners commend the foregoing propositions to the favourable attention of your Honourable House, and humbly and earnestly pray that the same may have statutory effect in any legislation for the future government of India.

And your petitioners will ever pray, &c.

Signed on behalf of the Association, by

Montague J. Feilden, President.

The humble Petition of Charles Hay Cameron, late Fourth Member of the Council of India, President of the Indian Law Commission, and of the Council of Education for Bengal,

Humbly showeth,

That, as President of the Council of Education for Bengal, your petitioner had opportunities of observing the desire and the capacity of large numbers of the native youth of India for the acquisition of European literature and science, as well as the capacity of the most distinguished among them for fitting themselves to enter the civil and medical covenanted services of the East India Company, and to practise in the learned professions.

That the said native youth are hindered from making all the progress they are capable of in the acquisition of the said literature and science:

1st. Because there is not in British India any university with power to grant degrees, as is done by universities in Europe.

2dly. Because the European instructors of the said native youth do not belong to any of the covenanted services of the East India Company, and do not therefore, whatever may be their learning and talents, occupy a position in society which commands the respect of their pupils.

3dly. Because no provisions has been made for the education of any of the said native youth in England without prejudice to their caste or religious feelings.

Your

Your petitioner therefore prays,

That one or more universities may be established in British India.

That a covenanted education service may be created, analogous to the covenanted civil and medical services.

That one or more establishments may be created, at which the native youth of India may receive, in England, without prejudice to their caste or religious feelings, such a secular education as may qualify them for admission into the civil and medical services of the East India Company.

And your petitioner will ever pray.

30 November 1852. *C. H. Cameron.*

The Petition of the City of Manchester, in Public Meeting Assembled,

Humbly showeth,

That, in the opinion of your petitioners, the constitution of the Indian Government is not adapted to secure the welfare of the people of India, and has not promoted their best interests, nor provided for that wise administration of affairs which it is the first duty of every government to afford to the people over which it rules.

That abundant evidence has been adduced to prove, that under the British Government, the progress of the people in industry and wealth has been retarded; the administration of justice has been defective; the nature and mode of taxation has been oppressive; public works have been inadequate for the purposes of communication, navigation, and irrigation; and that altogether the people have been left in a state of misery disgraceful to their rulers.

That your petitioners believe that no security can be given for the reform of abuses in India but by a thorough reform of its Home Government, and entertain the opinion that the Court of Directors and Proprietors of the East India Stock should be entirely disconnected from the Government of India, which, for the future, should in this country consist of a Minister and a Council appointed by the Crown, and directly responsible to the Imperial Parliament.

And your petitioners will ever pray.

Signed on behalf of the meeting,
Robert Barnes, Mayor, Chairman.

The humble Petition of Frederick Henry Lindsay, of the Commander-in-Chief's Office, Horse Guards; and the Reverend James Fendall, of Harlton Rectory, in the County of Cambridge, Clerk, Executors of the late Elizabeth Grant, late of Cheltenham, in the County of Gloucester, deceased, Widow and Representative of the late Robert Grant, of Cawnpoor, a Senior Merchant in the Bengal Civil Service,

Showeth,

That during the period which elapsed between the years 1776 and 1779, the late Mr. Robert Grant, then residing as a free merchant at the town of Furrackabad in Bengal, within the territory of the Nabob Muzuffer Jung, a tributary chief of the native kingdom or vizierate of Oude, became the creditor of the said nabob for the value of certain merchandize which he sold to him; and in acknowledgment and satisfaction of his claim received certain tuncahs or assignments on the tax gatherers of the Furruckabad territory, over which his debtor ruled.

That no part of those assignments was yet realised when, in 1783, or shortly previous, Mr. Grant entered the service of the East India Company, and was appointed assistant to the British Resident at Lucknow, the seat of the Oude Government.

That about the same time an English agent was commissioned on the part of Asoph-ul-Dowlah, Nabob Vizier of Oude, to levy the tribute of his subject prince, Mr. Grant's debtor, and a residence being required for the individual appointed, a house, the property of Mr. Grant, was bought of him by the nabob vizier for the purpose, at the expense of his tributary aforesaid, in whose possession, after serving the temporary object of the purchaser, it ultimately remained.

That, during this transaction, it was proposed by the nabob vizier, as a means of obviating any inconvenience which might attend on the separate collection by Mr. Grant of that part of the Furruckabad revenues which had been assigned to him by his debtor, that transfer of the assignments which he held should be made to the vizier himself, that prince in return offering to charge his Government with the care of realising them, and to bind himself

Appendix, No. 7.

personally to make payment to Mr. Grant of their amount, increased as it now was by that of the purchase-money agreed on for the house, which his Highness undertook to pay from the same source.

That this arrangement being acceded to by Mr. Grant, he received in exchange for his assignments and his house the nabob vizier's bond for 90,265 rupees, two and a half annas and a quarter, dated on the 12th of December 1783, and bearing simple interest at 12 *l.* per cent. per annum, the fractional sum being evidence that it was granted on the settlement of an account.

That, shortly after the transactions now related, Mr. Grant, by a sudden mandate from the Supreme Government of Bengal, was removed from his situation in the Honourable Company's service, and at 48 hours' notice required to quit Lucknow.

That he petitioned in vain to be permitted to return to it for a time, for the arrangement of his affairs; no reply being vouchsafed to his application.

That he petitioned repeatedly and earnestly, but equally in vain, to be furnished with some statement of the reasons which had moved to the extraordinary measure of his dismissal; and that the silence upon this subject which was observed then, has been ever since persevered in.

That at this period the nabob vizier was engaged, in a very distressed state of his finances, in satisfying the large demands on his revenue of the government of the Honourable Company aforesaid.

That the consequence of the position in which Mr. Grant found himself now placed was, that the nabob vizier, who had in the meantime realised the assignments and the purchase-money of the house, as can be proved from the records of the Furruckabad province, did nevertheless refuse payment of the bond granted for their united amount; and that up to the present day that bond remains undischarged by himself or his successors.

That, by the death of Mr. Grant, the unsatisfied claim devolved upon the late Elizabeth Grant, his widow and legal personal representative, and by the death of the late Elizabeth Grant, on or about the 20th day of March 1845, the same unsatisfied claim has devolved upon your petitioners as the executors of her last will and testament, which was duly proved by your petitioners in the Prerogative Court of Canterbury, on the 2d of May 1845.

That it seemed reasonable to expect that a claim which had arisen in such circumstances, and under such circumstances been resisted, would not be long or finally denied the interposition of the Supreme Government in aid of its recovery:

That, nevertheless, during a long series of years, and in reply to three formal addresses on the subject to the successive administrations of India, Mr. Grant's petition to this effect was repeatedly rejected, on the ground that his case did not exhibit such a peculiar character as to justify, and as in other instances had justified already, a departure from the general rule of non-interference in such cases which had been laid down by the Company's government.

That the said Elizabeth Grant, deceased, in her lifetime, in the year 1838, presented a memorial to the Honourable the Court of Directors of the East India Company, on the subject of the said unsatisfied claim of her deceased husband, the said Robert Grant, and in answer to such memorial of the said Elizabeth Grant, the Court of Directors replied that they saw no reason whatever to deviate from the determination of the Bengal government.

That, in opposition to this opinion, your petitioners with great deference submit that this claim possesses the peculiarity required, in the highest possible degree, and that the following deductions from the narrative now given are legitimate and conclusive.

1. That the entire debt was contracted several years before the principle of non-interference was established and declared, or was even suggested, which it was by Lord Cornwallis, in 1786.

2. That the non-interference system itself having only been justified and adopted on the ground of the usurious character of loans made to the princes of India, and having been not otherwise recognised by the Honourable the Court of Directors of the East India Company than as applying to cases of loan, would not, even had its adoption taken place at an earlier period, have been considered or at all applicable to a claim like the present, arising from fair and ordinary mercantile transactions.

3. That neither could a principle applicable only to loans have admitted of being extended to the present case by exception on any pretext, such as that of its exhibiting the slightest character of usury, as regards the description or amount of interest stipulated in the bond; and that it may in this respect be advantageously contrasted with cases of loans in general, and with the favoured case of the Lucknow bankers in particular, in all of which the bonds bore compound interest, some of them at 24, and some even at 36 per cent.

4. That the Furruckabad tribute up to the amount of the bond paid as it was by Mozuffer Jung, and paid by him expressly on the late Mr. Grant's account, bore in the treasury of Oude every sacred and peculiar character which can belong to a deposit, the nabob vizier being

being rather to be considered as the late Mr. Grant's steward in the matter than as an ordinary debtor.

5. That a portion of the claim originated in a circumstance indirectly beneficial to the Government of the Honourable the East India Company, the acquisition, namely, by the nabob vizier of the house which was required for the accommodation of the collector of his tribute, that tribute assisting of course in the liquidation of the demands on the Oude Government by the Honourable Company itself.

6. That the Supreme Government of Bengal became a direct and active party to the nabob vizier's refusal to discharge the debt, by its arbitrary unexplained act of power exercised in Mr. Grant's removal from Lucknow, that Government being, as is perfectly known, the only power or authority held in any respect or fear by the native princes of India, and by the Court of Oude in particular, and consequently its apparent displeasure towards Mr. Grant, intimated in the violent measure in question, removing the only real security ever held by him for the satisfaction of his claim.

7. That it was unfortunate for the Government of the Honourable East India Company that the unexplained removal of a private creditor of the nabob vizier's should have been contemporaneous with the liquidation by that sovereign of the demands on his revenue of the Honourable the East India Company themselves, and with the difficulties which he experienced in meeting his engagements in that quarter.

That, in addition to these pleas for interposition in this case, deduced from the facts of its history, it is to be mentioned that an interference for the recovery of a claim closely resembling it in its principal features, did actually take place under the administration of the Marquis of Wellesley, the claim, namely, of the late Mr. Michael Prendergast upon Almas Ali Khan, a subject of the Oude Government, it being expressly affirmed by Mr. Lumsden, some time Resident at Lucknow, in a letter addressed by him to the late Mr. Grant, and now extant in the possession of your petitioners (though in a paragraph of that letter, in which he contends against the resemblance in question), that the ground upon which the interference in favour of Mr. Prendergast proceeded was, that the acts of oppression and injustice of which he complained, were the immediate consequences of the orders of the Bengal Government for his removal from Lucknow, on which account it is added the Government was bound to see justice done to him.

That the delay of many years which has occurred in the case in pressing for interference before the Indian administration in this country, is explained by the facts of the prosecution of it in London having been undertaken nearly 30 years ago by the late Mr. Prendergast, then about to proceed from Bengal to England as the agent of the Lucknow bankers, in their great claim against the same native state, and of its having in his hands, occupied as he was with his more important agency, suffered much, if not entire, neglect, a circumstance which remained unknown to Mr. Grant or his heirs until so recent a period as 1833, and which, even had they been sooner aware of it, would probably have advanced but little the progress of the suit, seeing that in the bankers' claim the proceedings had been protracted without any determinate issue to a still later date, and that upon that claim Mr. Grant had always, so to speak, been allowed to wait, it having been always supposed or alleged that on the fate of the one case must depend that of the other, though in point of fact the two are wholly unconnected, and exhibit but little resemblance, the superior merits in most respects of that of Mr. Grant's being sufficiently apparent.

That, at all events, and whatever may have been the causes of the delay suffered, such circumstance does not invalidate the case, inasmuch as no lapse of time can affect the justice of the claim, or change those peculiar features belonging to it, which your Petitioners would respectfully and with entire deference contend, entitle it to an interference for its recovery on the part of the British Government

Your petitioners therefore humbly pray, that as your Honourable House is now about to legislate for the future government of India, it may please your Honourable House to appoint a tribunal by which the claim of your petitioners, and all similar claims, may be investigated and determined.

Frederick Henry Lindsay.
James Fendall.

Appendix, No. 8.

RETURN of the Amount of the Salary and Allowances Paid in each Year to the Law Commissioner or Member of the Council of India, and the Aggregate Amount; stating also the Names of each Law Commissioner, and the Dates of Appointment and of Resignation, and the Period for which each Commissioner served in the Council, under the Act of 1833.

	Date of Appointment.	Date of Resignation.	Period of Service.	Salary per Annum.	Aggregate Amount of Salary.
Law Commissioners and Members of Council:			yrs. m. d.		Co.'s Rs.
Right Hon. T. B. Macaulay -	27 June 1834	16 Jan. 1838	3 6 20	S. Rs. 96,000 or Co.'s Rs. 1,00,320	3,55,531
Hon. C. H. Cameron - -	22 Jan. 1838 15 Feb. 1843	18 Mar. 1838 9 Mar. 1848	0 1 25 5 0 23	Co.'s Rs. 1,00,320	5,24,118
Hon. Andrew Amos - - -	19 Mar. 1838	4 Feb. 1843	4 10 17	1,00,320	4,89,580
Hon. J. E. D. Bethune - -	11 April 1848	Died 12 Aug. 1851	3 4 2	1,00,320	3,34.911
Hon. B. Peacock - - -	2 April 1852	- - Accounts not received.		—	—
Law Commissioners:					
G. W. A. Anderson - - -	19 Feb. 1835	7 Mar. 1838	3 0 17	52,250	1,57,493
J. W. Macleod - - - -	19 Feb. 1835	7 Mar. 1838	3 0 17	52,250	1,58,758
C. H. Cameron - - -	12 Aug. 1835 19 Mar. 1838	21 Jan. 1838 14 Feb. 1843	2 5 10 4 10 27	52,250	3,83,689
F. Millett, Officiating Member -	2 Jan. 1837 28 Jan. 1838	27 Jan. 1838 16 Apr. 1844	1 0 26 6 2 20	42,000 52,250	3,70,025
J. Young - - - - - -	22 Jan. 1838	22 Dec. 1839	1 11 1	52,250	1,00,286
D. Eliott - - - - - -	14 Jan. 1839	14 Feb. 1848	9 1 1	52,250	4,74,880
H. Barrodaile - - - -	23 Dec. 1839	4 Mar. 1844	4 2 10	52,250	2,19,534
				Co.'s Rs.	35,68,805

Mem.—The following are the sums, as disbursed in each year:

	Co.'s Rs.		Co.'s Rs.
1834-35 - - - -	67,995	1844-45 - - - -	1,54,892
1835-36 - - - -	2,32,988	1845-46 - - - -	1,52,570
1836-37 - - - -	2,74,386	1846-47 - - - -	1,52,570
1837-38 - - - -	3,09,115	1847-48 - - - -	1,40,031
1838-39 - - - -	2,63,952	1848-49 - - - -	97,533
1839-40 - - - -	3,13,674	1849-50 - - - -	1,00,320
1840-41 - - - -	3,09,320	1850-51 - - - -	1,00,320
1841-42 - - - -	3,09,320	1851-52 - - - -	36,738
1842-43 - - - -	2,99,803		
1843-44 - - - -	2,53,278	Co.'s Rs.	35,68,805

(Errors excepted.)

East India House,
20 April 1853.

JAMES C. MELVILL.

Appendix, No. 9.

COPY of the REPORT of the Law Commission in 1838, on the Institution Fee on Suits of Law in Mysore, made to Lord Auckland; also, Copy of the Act prepared by the Law Commissioners in 1840, for the introduction of the English Law into India generally, as modified by the Commission. Appendix, No. 9.

Note.—In pursuance of the Act 3 & 4 Will. 4, c. 85, s. 54, the following Papers were presented to the House of Commons, "The Report of the Law Commission in 1838, on the Institution Fee on Suits of Law in Mysore," on the 16th July 1839, which was ordered "to lie on the table;" and "Copy of the Act prepared by the Law Commissioners in 1840 for the introduction of the English Law into India," was presented on the 30th May 1843, and "ordered to be printed."

East India House, 22 April 1853.

JAMES C. MELVILL.

Appendix, No. 10.

COPIES of the CORRESPONDENCE, or EXTRACTS of CORRESPONDENCE and PAPERS between the Board of Control, the Court of Directors, and the Government of India, respecting the Fourth or Legislative Member of Council sitting in Council while other than Legislative Matters are under consideration. Appendix, No. 10.

East India House, 22 April 1853.

JAMES C. MELVILL.

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Appendix, No. 10.

POLITICAL AND LEGISLATIVE LETTERS.

No. 10.

Political Department, dated Ootacamund, 1 August 1834.

To the Honourable the Court of Directors of the East India Company.

* Page 521.
Consultation,
9 August 1834.
Nos.
List, Nos. 3 and 4.
† Page 522.

Honourable Sirs,

We do ourselves the honour to forward for your consideration, the accompanying copy of minute* recorded by the fourth ordinary member of Council, on the occasion of taking his seat, together with copy of a minute † by our President on the same subject, and to state that we fully concur in all the observations made by his Lordship on this occasion.

We have, &c.
(signed) *Wm. Bentinck.*
Frederick Adam.
W. Morison.
T. B. Macaulay.

Ootacamund, 1 August 1834.

Extract Legislative Letter from India, dated 24 August (No. 2) 1835.

* Page 523.

101. There were some other objections to which Mr. Macaulay replied, in a minute* dated the 13th June, but these were avoided by a determination which was come to, not to consider the Legislative Council as distinct from the Executive Council; but that there should be but one Council, with a separate legislative department; the fourth member being understood to have a legal right to be present in any department when laws or matters immediately connected with laws, might be under discussion.

Extract Legislative Letter from India, dated 31 August (No. 3) 1835.

Duties and powers of the fourth ordinary member.

* Despatch, 10 Dec. (44) 1834, page 518.

12. Feeling the full force of your Honourable Court's observations on the expectations with which the situation of fourth member of our Council was created, and entirely coinciding in the opinion expressed in these paragraphs *, of the advantage which must result to the legislative utility of that member, by his being intimately acquainted with the whole of the executive business of the Council; we are happy in being able to report, that we had anticipated the recommendation made in the 23d paragraph of this despatch, by requesting the attendance and assistance of Mr. Macaulay at every meeting of our body.

Legislative Department, 9 November (No. 7) 1835.

To the Honourable the Court of Directors of the East India Company.

* Page 519.

Honourable Sirs,

We have the honour to acknowledge the receipt of your despatch* in the Legislative Department (No. 3 of 1835,) dated the 8th of July, observing that the signature of the fourth member of Council has been annexed to despatches relating to matters not connected with the making of laws and regulations, and desiring that the irregularity may be discontinued.

2. The apparent irregularity which has been noticed by your Honourable Court, it has been heretofore difficult altogether to prevent; questions connected with the framing of laws and regulations, or such as might lead to it, having been taken into consideration with the other proceedings of the judicial and other departments, and it not having been always easy to define whether deliberations were, or were not of a legislative character. Now, however, that a separate legislative department has been formed, we trust that your Honourable Court will not have occasion again to observe a similar irregularity.

We have, &c.
(signed) *C. F. Metcalfe.*
H. Fane.
W. Morison.
R. Shakespeare.
T. B. Macaulay.

Fort William, 9 November 1835.

Appendix, No. 10.

HOME DEPARTMENT, Legislative, dated 12 May (No. 9) 1843.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

We have taken into our deliberate consideration the important subjects of your despatch* in this department, (No. 3) dated the 1st March last, and have now the honour, in compliance with your wishes, to submit to your Honourable Court our views and opinions as contained in the accompanying minutes,† which we have placed on record. We also enclose copies of minutes recorded by Messrs. Amos and Cameron,‡ in regard to the Law Commission, prior to the receipt of your despatch.

* Respecting the Law Commission, and appointment of Mr. Cameron as fourth ordinary Member of Council.

† Extracts:

Minute by the President, dated 4 May, page 525.
Minute by Mr. Maddock, dated 8 May, page 525.
Minute by Sir W. Casement, dated 9 May, page 525.
Minute by Mr. Cameron, dated 10 May, about the Law Commission.

‡Minute by Mr. Amos, dated 27 January, and enclosure, page 524.
Minute by Mr. Cameron, dated 30 March, about the Law Commission

2. Your Honourable Court's suggestion to suspend the appointment of a successor to Mr. Amos was received too late to be acted upon. Our despatch in the general department (No. 3), dated the 15th of February last, will have apprised you, that with the concurrence of the Right Honourable the Governor-General, we had called in Mr. Cameron to fill the office of fourth ordinary member of the Council of India, until the pleasure of your Honourable Court could be known. We found this temporary arrangement absolutely necessary to give validity to our legislative proceedings.

We have, &c.
(signed) *W. W. Bird.*
Wm. Casement.
T. H. Maddock.
C. H. Cameron.

Fort William, 12 May 1843.

HOME DEPARTMENT, Legislative, dated 21 December (No. 25) 1843.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

We have now the pleasure to forward a copy of the minute* recorded by Mr. Cameron, respecting the office of fourth ordinary member of the Council of India, and the constitution of the Law Commission, together with copies of the minutes † recorded by the Governor-General and by ourselves, with reference to Mr. Cameron's views.

* Page 526.

† Pages 526, 527

We have, &c.
(signed) *W. W. Bird.*
Wm. Casement.
T. H. Maddock.
C. H. Cameron.

Fort William, 21 December 1843.

FOREIGN DEPARTMENT, Secret; dated Benares, 18 February (No. 18) 1844.

To the Honourable the Secret Committee of Honourable the Court of Directors.

Honourable Sirs,

I HAVE the honour to transmit to you a minute*, which I have this day recorded, with reference to your letter of the 29th of November 1843, wherein you express a desire that the fourth member of Council should be present at meetings of the Council, not held for the purpose of passing laws and regulations.

* Page 527.

I have, &c.
(signed) *Ellenborough.*

HOME DEPARTMENT, Legislative; dated 16 March (No. 6) 1844.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WITH reference to your despatch, No. 22, dated 29 November 1843, and to the Governor-General's reply, dated the 18th ultimo, we have the honour to transmit the accompanying copies

* Pages 527, 528, 529. Leg. Cons., 16 March 1844, 1 to 6.

copies of our minutes* of the dates specified on the margin, and of our letter to Mr. Cameron, requesting his attendance in the Council, when important matters connected with the judicial and revenue administration may be under consideration.

We have, &c.
(signed) *Ellenborough.*
W. W. Bird.
W. Casement.
T. H. Maddock.

Fort William, 16 March 1844.

Home Department, Legislative, No. 14 of 1850.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Some discussion having taken place at this Board in regard to the share which the fourth ordinary member of Council should take in the proceedings of the Council, we have the honour to transmit the minutes which have been recorded on the subject, and to solicit your Honourable Court's decision on the point that has been raised.

Office memorandum prepared by the secretary, dated 26 November 1849, page 529.
Minute by the Hon. Sir F. Currie, Bart., dated 29 Nov. 1849, page 540.
Minute by the Honourable J. Lowis, dated 12 November 1849, page 541.
Minute by the Honourable J. E. D. Bethune, dated 12 April 1850, page 541.
Minute by the Governor-General, dated 29 May 1850, page 543.
Minute by Sir J. H. Littler, dated 17 June 1850, page 544.
Minute by Sir F. Currie, Bart., dated 20 June 1850, page 545.
Minute by the Honourable J. E. D. Bethune, dated 29 June 1850, page 545.

We have, &c.
(signed) *J. H. Littler.*
F. Currie.
J. Lowis.
J. E. D. Bethune.

Fort William, 15 July 1850.

LEGISLATIVE DESPATCHES.

Extract Public Letter to India, dated 10 December (No. 44) 1834.

19. While thus considering the deliberative part of your duties, our attention is necessarily led to one important alteration which the Act has made on the constitution of the Supreme Council. We allude to the appointment of the fourth ordinary member of Council, as described in the 40th clause.

20. In the first and simplest view of this remarkable provision, the presence and assistance of the fourth councillor must be regarded as a substitute for that sanction of the Supreme Court of Judicature which has hitherto been necessary to the validity of regulations affecting the inhabitants of the Presidencies, but which, under the new system, will no longer be required. It is, however, evident that the view of the legislature extended beyond the mere object of providing such a substitute.

21. The concurrence of the fourth member of Council may be wanting to a law, and the law may be good still, even his absence at the time of enactment will not vitiate the law; but Parliament manifestly intended that the whole of his time and attention, and all the resources of knowledge or ability which he may possess, should be employed in promoting the due discharge of the legislative functions of the Council. He has indeed no pre-eminent control over the duties of this department, but he is peculiarly charged with them in all their ramifications. His will naturally be the principal share, not only in the task of giving shape and connexion to the several laws as they pass, but also in the mighty labour of collecting all that local information, and calling into view all those general considerations which belong to each occasion, and of thus enabling the Council to embody the abstract and essential principles of good government in regulations adapted to the peculiar habits, character, and institutions of the vast and infinitely diversified people under their sway.

22. It will be observed that the fourth member is declared not to be entitled to sit or vote in the Council, except at meetings for the making of laws and regulations.

23. We do not, however, perceive that you are precluded by anything in the law from availing yourselves of his presence without his vote on any occasion on which you may think it desirable; and on many, if not all, of the subjects on which your deliberations may turn, an intimate knowledge of what passes in Council will be of essential service to him in the discharge of his legalative functions. Unless he is in habits of constant communication, and entire confidence with his colleagues, unless he is familiar with the details of internal administration, with the grounds on which the Government acts, and with the information by which it is guided, he cannot possibly sustain his part in the legislative conferences or measures with the knowledge, readiness, and independence essential to a due performance of his duty.

LEGISLATIVE DEPARTMENT, 27 February (No. 1.) 1835.

Our Governor-General of India in Council.

Para. 1. Mr. Macaulay, in his minute, observes, that "though the fourth member of Council may have no vote on a question, for example, of war, yet he will have a vote when the question is about furnishing the sinews of war; and his opposition on the question of supply may prevent the Executive Council from carrying its purpose into effect, or may force the Governor-General to have recourse to his extraordinary authority."

2. The question thus opened, whether the Governor-General can, under the 49th section of the Act of the 3d and 4th Will. 4th, c. 85, overrule the Council in its legislative capacity, and make, suspend, alter or repeal a law or regulation of his own authority, appeared to us of such high importance, that the determination of it by competent authority should not be delayed.

3. We have received the opinions of the law officers of the Crown, and of our own standing counsel on the subject, which all concur; and we now transmit them, with the case submitted to them, for your information and guidance.

We are, &c.
(signed) *Henry G. Tucker.*
W. S. Clarke.
&c. &c. &c.

London, 27 February 1835.

LEGISLATIVE DEPARTMENT, 4 March (No. 2), 1835.

Our Governor-General of India in Council.

Para. 1. To obviate future misunderstanding upon a point of high constitutional importance, we think it necessary to take immediate notice of an opinion expressed in the letter of the Vice-President in Council, addressed to the Governor-General, under date the 31st of May 1834.

2. The passage to which we allude is in the 6th paragraph of the letter, and in these words; "If it should appear to your Lordship to be necessary to have recourse to the Legislative Council, in order to confer a more formal legality on the proceedings of this Government as at present constituted, the best mode of effecting this will, we doubt not, have your Lordship's attention."

3. It is implied in these words, that the Legislative Council has the power of conferring legality upon proceedings of the Government, where such proceedings shall not be in conformity with the provisions of the Act of Parliament. We can hardly doubt that this mistake was upon reflection apparent to yourselves, still for greater security, we think it advisable to refer you to the 43d section of the Act of 3d & 4th Will. 4th, c. 85, from which the Legislative Council of India derives its authority. You will perceive that the section expressly excepts from the legislative power conferred upon the Governor-general in Council the power of making any law or regulation which shall in any way repeal, vary, suspend, or affect any of the provisions of the Act; but a legislative enactment of the Council, purporting to give a formal legality to a proceeding not in conformity with the Act, would clearly affect its provisions, and being in excess of the authority given to the Council by the Legislature, would be necessarily void.

4. The attention of the Legislature will be drawn to the necessity of imparting its sanction to such proceedings of the Government of India as, under the pressure of the occasion, have not been in perfect conformity with the provisions of the recent Charter Act.

5. We also take this opportunity of observing that our meaning in paragraph 12, of our letter to you of the 27th December 1833, relative to the question of a Council for Bengal, has been correctly interpreted in the letter of the Vice-President in Council now under observation, and in the minute of Mr. Macaulay, dated 29th June 1834.

We are, &c.
(signed) *Hy. S. Geo. Tucker.*
W. S. Clarke.
&c. &c. &c.

London, 4 March 1835.

LEGISLATIVE DEPARTMENT, 8 July (No. 3) 1835.

Our Governor-General of India in Council.

Para. 1. We have several times observed the signature of the fourth member of the Council of India annexed to despatches relative to matters not connected with the making of laws and regulations; though he could not be present at deliberations on such matters as a member of Council.

ppendix, No. 10.

2. The signature of the fourth member to a document, in respect to which he shares none of the responsibility, is evidently an irregularity which ought not to exist. We therefore deem it necessary to call your attention to it, and to require that it be discontinued.

We are, &c.
(signed) *W. S. Clarke.*
J. R. Carnac.
&c. &c. &c.

London, 8 July 1835.

EXTRACT Legislative Letter to India, dated 29 November (No. 22) 1843.

2. WE have also adverted to the opinion of former Governments, in which you have expressed a general concurrence, that it is of importance, with a view to the efficient performance of the duties belonging to that appointment, that the person filling it should be present at all meetings of Council for the administration of the affairs of Government. In conformity to that opinion we desire that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations; but, at the same time, you will bear in mind that, at such meetings only, is he entitled to a voice in your proceedings.

LEGISLATIVE DEPARTMENT, 5 June (No. 12) 1844.

Our Governor-General of India in Council.

Whole Secret (Governor-General's) Letter, 18 February (No.) 1844.
Legislative Letter - - - - 16 March (No. 6).

ourth member of ouncil.

Para. 1. WE forbear from commenting on the terms in which you have in your several minutes, adverted to the instructions addressed to you in our letter of the 29th of November last, regarding the fourth member of Council, but it is necessary that we should set you right with respect to some degree of misapprehension entertained by you on the subject.

2. In the letters in question, we desire, in conformity with the practice which until recently had always been observed, "that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations;" but at the same time we drew your attention to the provision of the Charter Act that he "shall not be entitled to sit or vote in the said Council," except at such meetings. We thereby showed you clearly that we did not consider our instructions to be inconsistent with that provision.

3. The fourth member not being "entitled to sit or vote in the said Council," does not form a component part of that body and has no voice in its proceedings, except for the purpose of making laws and regulations. But the expression "to sit" in Council is not used in a literal sense, as if the Council were the place where the members met, instead of the constituent body itself. It seems sufficiently obvious that it was not intended to be illegal for the fourth member to be present at all meetings of Council, from this consideration alone that he would in that case be the only individual subject to such a disqualification.

4. With respect to the attendance of the fourth member at the Council while it may be engaged in questions purely of a political or military nature, we concur with the opinions conveyed in the minutes which you have forwarded to us from the other members as to the propriety of his absence upon such occasions.

We are, &c.
(signed) *J. Shepherd.*
H. Willock.
&c. &c. &c.

London, 5 June 1844.

LEGISLATIVE DEPARTMENT, 3 January (No. 1) 1851.

Our Governor-General of *India* in Council.

Regarding the share to be taken by the fourth ordinary member of Council in the proceedings of Government.

Para. 1. IN your letter in this department of the 15th July 1850 (No. 14), you have applied for our decision, whether the minutes of the fourth member of Council, on questions not belonging to the legislative department, ought to be placed on the records of Government.

2. As the fourth member of Council has no voice and no responsibility, except at meetings for making laws and regulations, it seems to us desirable, as a rule for general practice, that in other departments his sentiments should not be placed on record; but it will continue to be in your discretion to ask his opinion (as was stated to have been done with respect to Mr. Amos, in your revenue letter of the 15th of June 1839, para. 20), either orally or in writing, on any occasion when you may stand in need of such assistance as his knowledge and experience may enable him to afford.

We are, &c.
(signed) *J. Shepherd.*
J. W. Hogg.
&c. &c. &c.

London, 3 January 1851.

In India Political Letter, dated 1 August (No. 10) 1834. Appendix, No.

EXTRACT India Political Consultations, 9 August 1834.

(No. 7.)

MINUTE by Mr. *Macaulay*, 27 June 1834.

I FEEL it to be my duty, on entering upon my new functions, to bring under the notice of his Lordship in Council the great difficulties of the situation in which I am placed. The clause of the Act of Parliament which defines my powers is so worded, that until it is explained by some competent authority, I shall be constantly in doubt as to the course which I ought to pursue. I shall scarcely ever be able to act without an apprehension that I may be intermeddling in what does not concern me, or to refrain from acting without an apprehension that I may be shrinking from labour and responsibility which it is my duty to encounter.

2. As I was a Member of the House of Commons, and Secretary to the Commissioners for the Affairs of India, during the year 1833, I should have been inexcusable if I had not given the closest attention to the provisions of the Act. It may be thought therefore that I ought to be able to furnish explanations instead of being forced to ask for them. I hope that, in my own vindication, and without the least disrespect to any branch of the Legislature, I may be permitted to mention what is now matter of history, that the words of which I desire to have an explanation were not in the Bill when it passed the House of Commons, but were added at a very late stage; I think on the third reading in the House of Lords. The words to which I refer are these. "Provided that such last-mentioned member of Council shall not be entitled to sit or vote in the said Council, except at meetings thereof for making laws and regulations."

3. India, then, is under the government of two Councils differently composed, the one a legislative, the other an executive body. It seems to me that something more than the words which I have quoted was required to define the provinces of these two authorities. During the last 60 years many constitutions have been framed in Europe and in America; and I will venture to say that there is not one of those constitutions in which it has not been thought necessary to draw the line between the functions of the executive and those of the legislative body, with a degree of care and precision very different from what is to be found in the words which I have quoted.

4. And the reason is obvious. The line which separates legislative from executive proceedings is not a natural but an arbitrary line. It is differently drawn in different countries at the same time, and in the same country at different times. In England, the declaring of war is an executive act. By the constitutions of some other countries it is a legislative act. In England, at present, the executive power can pardon any criminal. In the time of the Commonwealth the Protector could not pardon murder; an Act of the legislature was necessary. Indeed the history of the East India Company furnishes an excellent illustration of my meaning. It was long disputed, among lawyers, whether the exclusive commercial privileges once enjoyed by that body could be legally conferred by the executive power, or whether an Act of the legislature was necessary. In Elizabeth's time the doctrine favourable to the executive power was generally admitted. Since the Revolution it has been almost universally held that an Act of Parliament alone could give a monopoly to any person or corporation. It would be easy to multiply instances; but those which I have given are sufficient to show that the line between legislative and executive proceedings is very differently drawn in different places and in different ages.

5. Where, then, is it to be drawn in the Indian Government? The Act of Parliament constitutes an Executive and a Legislative Council; but it makes no partition of power between them. Hitherto no doubts could arise, because there was a single body which possessed the whole power, legislative and executive. Under the new system doubts will arise every day, unless something be done to set them at rest.

6. In the absence of all explanatory words, it seems not unnatural to suppose the intention of the Legislature to have been, that the partition of power in the Government of India should be analogous to that which exists in the Government of England; that the Executive Council should exercise the same prerogatives which at home belong to the Crown; and that an Act of the Legislative Council should be necessary in all cases in which, at home, an Act of Parliament is required. If we put this sense in the clause, and I am unable to find any more probable sense, it follows that the army cannot be augmented in time of peace; that taxes cannot be imposed even for local purposes: that money cannot be borrowed on the public faith of the Indian empire, without a vote of the Legislative Council. No state prisoner can be detained in custody without such a vote. No treaty with any neighbouring power, stipulating for any payment of money on our part, will be binding without such a vote.

7. It is plain that, if this rule be adopted, the Legislative Council will exercise in India, as a Parliament exercises in England, a control over almost all the proceedings of the Executive Government. Though the fourth member may have no vote on a question, for

pendix, No. 10. example, of going to war, yet he will have a vote when the question is about furnishing the sinews of war, and his opposition on the question of supply may prevent the Executive Council from carrying its purposes into effect, or may force the Governor-General to have recourse to his extraordinary authority.

8. Whether this be or be not the sense in which the words of the Act are to be understood, I am altogether in doubt. I wish these doubts to be submitted to the Court of Directors; and, until an explanation shall arrive from home, I shall leave it to the Governor-General and the other members of Council to determine what share of the public business they will assign to me, neither intruding myself into any deliberations from which they think that I ought to be excluded, nor declining any labour or any responsibility which they may invite me to share with them.

(signed) *T. B. Macaulay.*

Ootacamund, 27 June 1834.

(No. 8.)

Minute by the Governor-General.

31 July 1834.

In reference to Mr. Macaulay's minute of the 27th of June, respecting his own position in Council, I feel it to be unnecessary for me, even were I competent to the task, to offer any opinion upon the legal and constitutional difficulties he has so clearly described, and which can only be solved by the authorities to whom they have been addressed.

2. There is, however, another view of this subject, precisely bearing upon the same point, that is much less complicated and theoretical, and more within the reach of my humble judgment, which seems to me quite as deserving of consideration as the questions propounded by Mr. Macaulay.

3. I shall first assume, what indeed is my opinion, that the new Act has not altered the character of the Council; that it is one and the same for executive and legislative purposes; that, in its executive capacity, it can make peace and war, raise money, and do all that it has heretofore done, without requiring the interference of the same Council, in its legislative capacity, to give validity to its acts; and that the only restrictions imposed upon its powers of legislation are, that in making laws it must have the advice of the fourth member, and that no law can pass unless three ordinary members be present at the Council; and it is further directed, that the fourth member shall not be entitled to sit or vote in the Council, except at meetings for making laws and regulations, which must mean that he shall take no part, perhaps that he shall not even be present.

4. It is to this particular point, the exclusion of the fourth member from the ordinary sittings of the Council, to which I wish particularly to advert, as detracting very much from his usefulness, if not incapacitating him from the very important duties confided to him by the Legislature. Mr. Macaulay has never been in India; and he and his successors, like the greater part of the past, and probably of future Governors and Governor-Generals, as a stranger to the country for which he is to play the principal part, in making laws and regulations, he certainly may give most useful advice to the Council in the drawing up of their laws, so that they shall contain nothing either repugnant to the laws of England, or at variance with the enlightened spirit of the age. All this knowledge, which the fourth member may be supposed peculiarly to possess, will be highly useful in giving simplicity and clearness to our laws, in rendering them more philosophical, and therefore better and wiser, and more likely to harmonise with the feelings of the distinct races which we have to govern. But all this is mere theory of the art which he is come to exercise. Where is he to gain his practical knowledge of the state of society, of its manners, its feelings, and its customs? How is he to discover what there is to remedy, to reform, or to preserve? How is he to discover the abuses or the imperfection of our administration in any of its branches, revenue, judicial, or police? How is he to become acquainted with the effect of the existing laws and institutions upon the immense population? He must learn all this somewhere, or he will be a poor legislator. From the people themselves, the main objects of his care, he will learn nothing. They are not consulted, and hitherto they have had no means of making themselves heard. With them he can have little intercourse, and to the greater part of the European residents, any correct information upon all these details is as inaccessible as to himself. He can only learn his lessons in the same way that all Governors, who have been strangers, have done before him, by following, day by day, the reports of all the functionaries of the empire, and by hearing in every week's consultations not an insulated opinion only, which might be gained elsewhere, but the general discussion of all questions, and the results of the long experience of the able and responsible men who compose the Council. The proceedings of the Government contain the only real record of present life, and of the actually passing condition of India, although I must admit that these must remain but a very imperfect index either to the feelings of the people, or to the effect of our laws and regulations, until the natives themselves can be more mixed in their own government, and become responsible advisers and partners in the administration. In short, I cannot but think that the introduction of this restriction, as it seems to have been a late and sudden act,

act, was not well considered; for it cannot surely be advisable, at the same time that you declare the Council, as hitherto constituted, to be lame and insufficient for the purposes of legislation, thus to blindfold the single guide appointed to conduct them in their way.

5. I might stop here, but I will beg leave to say further, that in my judgment the exclusion in question operates as prejudicially upon the general Executive Government as it does upon the same Council in its legislative capacity. I have, upon another occasion, suggested the advantage to our judicial administration of introducing into our superior courts, strangers, not mere English lawyers, but men well acquainted with the science and philosophy of law, who might look into the practice of our courts, and into the actual working of our regulations in the Mofussil, unbiassed by ancient prejudice, or the exclusiveness of the civil service; and who might be able to point out how the modern improvements of Europe could be brought to bear upon the Indian system. In like manner I feel about the Council. There has been created a new appointment, which will always be filled, it is to be presumed, by a man of the first talent, and of the highest attainments. Why cast away the prodigious benefit to be derived from such an adviser in a Council of four only, to whom such mighty interests are entrusted? It has happened that the Council of India, since its formation, has been as much occupied with the execution of the provisions of the new Bill and with legislation as by other matters, and I have therefore felt it my duty always to call for the assistance of a full Council. And I have considered myself peculiarly fortunate in the occasion that has placed Mr. Ironside's services at my disposal. I am satisfied there is not a member of the Council that would not readily testify to the very great value of the aid we have derived from the fourth member in the decision of the many difficult and important questions that have come before us. In the course of these consultations, I have felt the difficulty of exactly interpreting the meaning of the clause respecting the fourth member's duties. When and where does legislation begin? In every Council, particularly in the Political Department, questions have come before us appertaining to international law, reciprocal jurisdiction, claims for fugitives, &c.; and again, in the establishing an administration, comprehending the whole internal management both in Mysore and Coorg, both countries not yet within the the pale of our territories. Do such subjects come within the province of the fourth councillor's interposition? There are many representations and references to each Council in the other departments, save the military, upon which the question may, and does often arise, whether some legal enactment should not take place. Is it at this stage of the deliberation, or when the framing of the law has been determined, that we are to call in the fourth member? There will be endless doubts upon this point, and I will take the liberty of stating an opinion as to a result which will not have been in the contemplation of the inventor of this exclusion, that with this latitude of construction, a Governor-general, if he so fancies, will have it in his power to make a mere cypher of this important personage.

(signed) *W. C. Bentinck*,
Governor-General.

Ootacamund, 31 July 1834.

In India Legislative Letter, 24 August (No. 2) 1835.

EXTRACT Minute by the Honourable *T. B. Macaulay*, Esq., dated 13 June 1835.

Respecting drafts of laws.

If Mr. Prinsep's resolution be adopted, a draft of the law of the highest importance may be sent to Calcutta by the Governor of Fort St. George in Council. The Executive Council may have this draft before them for a considerable time in the judicial or financial department. Long minutes may be recorded on it by the Governor-General, and by the three senior members of Council; fresh information may be called for; circulars may be sent all over the country; a copious correspondence may take place with the Madras Government; references may be made to the Law Commission, and answers received; this may go on for six months, and during all this time the fourth member of Council, sent to this country expressly for the purpose of legislation, solemnly reminded by the Court in their late despatch that though all the members of the Council are entitled to propose and discuss laws, his time and faculties are to be peculiarly devoted to that department of public business, considered both here and at home as especially responsible for the manner in which the work of legislation is carried on, would have no right to see a single paper or to hear a single discussion, and would certainly be precluded from voting on any question and from recording any opinion.

By the kindness of the late and present Governor-General and of my colleagues, I have been permitted to see every public document and to assist at every deliberation; but this may not always be the case. A Governor-General may be on bad terms with the fourth member of Council. Such a Governor-General would be borne out by the letter of the Act of Parliament in excluding the fourth member from all knowledge of what was doing in the executive departments of the Government. Mr. Prinsep proposes to transfer to the executive department half the business of legislation. If this course be adopted, it will be in the power of the Governor-General to oust the fourth member of Council from the great part of his legislative functions.

I deny both the expediency and the legality of such an arrangement; I deny the expediency of admitting a person to vote on the passing of a law, who has not been admitted to take part in all the preceding discussions on it; I deny the legal right of the Council of India

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India to exclude the fourth member of Council while they are deliberating on a draft of a law in the financial or judicial department; I claim for myself and my successors a legal right to record an opinion and to give a vote, not merely on the final passing of a law, but on every question which may arise respecting a law in any of its stages. The Council, I trust, will not decide against this claim without a reference home.

I have done my best to make out the reasons on which Mr. Prinsep grounds his proposition, but I am quite at a loss to understand them. He says that the public authorities must not be taught to believe that they have two masters; that question is for higher authority than ours. Parliament has thought fit to confide the Executive Government of India to one body, and the Supreme Legislative Power to another body. If this be an evil, let us apply to the Home Authorities to rid us of it. Indeed we have already done so. The Council at Ootacamund agree in recommending to the Court of Directors that proper measures should be taken for removing the restriction laid on the fourth member of Council. But as the law now stands the Indian empire has two masters, and we cannot repeal the law. There is a Supreme Executive Council and a Supreme Legislative Council; and, whether this be a convenient arrangement or not, we cannot lawfully transfer the functions of the Supreme Legislative Council to the Executive Council.

Mr. Prinsep proceed thus: "Suppose too an order from the Legislative Council should be neglected or disobeyed, whence is the punishment to come? If the Legislative Council were to take the enforcement of its orders in its own hands it would soon become an Executive Council, and the functions of the different branches of the Government would be confounded."

The danger then is, that the functions of the executive and legislative branches of the Government should be confounded, and the remedy is to jumble them together in inextricable confusion. That the Legislative Council should become an Executive Council would be a frightful evil, but that the Executive Council should become a Legislative Council is no evil at all. And how does Mr. Prinsep's proposition meet the difficulty which he has raised? Suppose that his rules are adopted: the Legislative Council wants information on some question; it applies to the Executive Council; the Executive Council neglects to procure the information; whence is punishment to come? how is the information to be procured? If the Legislative and Executive Councils differ this case might easily arise; if, on the other hand, they always agree, there is an end of the argument about the two masters.

The right course seems to me very obvious: when Parliament gave us the power of legislating it gave us also, by necessary implication, all the powers without which it is impossible to legislate well. I see no reason why the Legislative Council may not correspond directly with the subordinate Governments and with the Law Commission; why it may not directly call for information from any public functionary; why it may not, if it is considering the draft of a law, or a military or a financial subject, require the attendance of the military or financial secretary. In no government would I sacrifice substantial convenience to forms; least of all would I make such a sacrifice in a government so new as this, in a government which owes nothing to ancient associations.

If, however, it be the opinion of gentlemen more experienced than myself that there would be an advantage in interposing the Executive Council as a mere organ of communication between the Legislature and other bodies, though I must own that I do not conceive that the dignity of the Executive Council would be raised by such a course, and though I fear that much delay and inconvenience would result from it, I will not press my objections. But in that case it will be fit that the Executive Council should be merely an organ of transmission; that its letters should be mere echoes of the communications made to it by the Legislature; and that it should instantly transmit to the Legislature every paper relating to legislation which might be sent to any executive department; thus far I am ready to go. But that the Executive Council should, as Mr. Prinsep proposes, take on itself the greater part of the business of legislation would be, I again repeat, a most reprehensible course. It would be in the highest degree inexpedient; it would be a direct violation of the Act of Parliament; it would be a direct violation of the latest orders received from the Court of Directors; nor would there be, as far as I can perceive, a single compensating advantage to set off against these objections.

In India Legislative Letter, 12 May (No. 9) 1843.

Extract Minute by the Honourable Mr. *Amos*, dated 27 January 1843.

Besides questions purely legislative, numerous points have been settled in Council depending on legal grounds, and which arose in other departments of Government, both in the judicial, revenue, general, political, military, and ecclesiastical. The fourth member of Council has been called on to assist the Government upon various important questions arising in each of these departments. It may be proper here to observe, that the Advocate-General, if he be a person possessing long experience in the administration of English law, may be very capable of advising the Council upon technical points, in which they themselves perceive difficulty, and where it does not require to be pointed out to them, and he may be well able to put into technical form any legislative measures upon which the Council has resolved. It does not follow from the qualifications, according to which it is presumed that he is appointed, that he is versed in general principles of jurisprudence and legislation, though doubtless

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doubtless this may occasionally happen, and he may be consulted with advantage upon such matters. But these, I apprehend, constitute a small and confined portion of the duties of the legislative member of Council, even according to the strict interpretation of the statute. But if (as till lately has been the practice) it be intended that the legislative member shall acquaint himself with the general administration of Indian Government in all its departments, such an acquaintance being of unquestionable importance in many legislative deliberations, then, I think, it would be preposterous to suppose that his duties could be properly performed by the Advocate-General.

It is here necessary to observe, that the business of Council may be thought to press somewhat less heavily on the President of the Commission, if the course be continued of excluding the fourth member from being present at meetings of Council during the transaction of the business of any other department than the legislative. This course, which is in strictness quite legal, and is most consonant to the Act of Parliament, was adopted when Lord Ellenborough assumed the Government, though, I believe, by no means in consequence of the opinions or wishes of the other members of Council. Lord William Bentinck and Lord Auckland have both written minutes in favour of the practice which has been superseded, and the Court has especially approved of that practice. There can be no doubt, I think, that the new course must render the legislative member much less efficient to the discharge of his peculiar duties, especially for the first two or three years after his arrival, whilst in the departments of Government, in the deliberations of which he used to be present without interfering, an immediate reference to him on, or occasional suggestions by him on purely legal points, has, I am satisfied, often been found highly convenient. It may perhaps be thought that the time which, according to the new course, has been saved to the fourth member from the business of Council, will not be wholly gained for the Commission. For very often the discussion occurring on papers in other departments of Government than the legislative, but which has led to some legislative measures, have, I am persuaded, obviated the necessity of my making inquiries which would have consumed much more time, and would probably have been much less satisfactory.

EXTRACT Minute by the Honourable *W. W. Bird*, dated 4 May 1842.

6th. THE Council of India should, I am of opinion, consist, besides the Commander-in-Chief as an extraordinary member, of one military and two civil ordinary members, as at present, with the addition of a member from the civil services of Madras and Bombay, to be withdrawn from the Councils of those Presidencies, and to take a part, like the rest, in all questions coming before it, and as a law member in some shape or other cannot, I think, be conveniently dispensed with, he, too, should have a voice in all matters judicial, revenue, and commercial, as well as legislative. He need not, perhaps, have anything to do with political and military affairs, but unless he sees and becomes acquainted with everything connected with the internal civil administration, he cannot possibly discharge as he ought his legislative duties.

In legislative letter, dated 12 May (No. 9) 1843.

EXTRACT Minute by the Honourable *T. H. Maddock*, dated 8 May 1843.

SINCE the passing of the Charter Act in 1833, great advantage has attended the presence in Council of a member of the Government, competent to advise it on doubtful points of law at the moment when they occur. Hearing and entering into such discussions as take place at the Council Board, regarding proposed acts of the Legislature, he becomes thoroughly informed of the views of Government, and is enabled to prepare drafts of laws with an accuracy and promptitude that could hardly be expected under any other arrangement. The general legislation of the Government has by this aid proceeded without communication with the Law Commission, and the most important laws have been passed without any reference to that body. The business of legislation would be greatly retarded if the Government had to consult any one out of Council on every Act pending or in contemplation.

In legislative letter, dated 12 May (No. 9) 1843.

I entirely concur in opinion with Mr. Bird, that the law member of the Council of India should be present in Council at all meetings, where matters relating to the general administration in the home department of the Government are under discussion.

In legislative letter, dated 12 May (No. 9) 1843.

EXTRACT Minute by the Honourable Major-General Sir *W. Casement*, K.C.B.

IT is impossible, I think, to deny, looking at all that has been done, and all that remains to us and to our successors to do, that a return to the old constitution of the Council, unassisted by legal learning and experience, would quite unfit it for the duties it has to perform. I do not know, indeed, that the authorities at home have any such measure in contemplation. But lest the idea should be entertained in any quarter, I would express by firm conviction, in accordance with the view taken by Lord William Bentinck's Government, that the presence of a learned and judicious English lawyer as a member of the Legislative Council, is indispensable to a right exercise of the functions of the Indian Legislature. The aid which we have

In legislative letter, dated 12 May (No. 9) 1843.

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have had from such a member, and which will be even more necessary as the Council advances to those difficult questions which I have shown yet remain for its consideration, could only, in a comparatively very small degree, be given by one or more of the Judges of the Supreme Court, to whose employment in that capacity there exist at the same time, as has been remarked by Sir Edward Ryan in his Minute of 2 October 1839, the strongest objections, founded upon a principle of very general application, and upon the wisest and most enlarged views of political expediency, and the constitution of human society. The Advocate-General might, to a limited extent, supply the information which the Council would need, if it had no legal member; but the value of his advice would usually be less than, under such circumstances, the Council would require. His engrossing practice, as a barrister, would always be in the way of that deliberate attention to legislative measures, which would be indispensably necessary to their success; and his position in other respects might be unfavourable to independent discussion, and would certainly prevent his taking part in the consideration of legislative questions with such readiness and freedom as is desirable, and which, I agree with the Honourable Court in thinking, will not be possessed by the legislative adviser of the Council, unless he be one of their body, and present if not actually taking a part, not only when laws are only in debate, but in all the deliberations of the Government, political and military deliberations perhaps excepted.

I repeat, therefore, that both from theory and from actual experience, I am strongly in favour of the continuance of that constitution of the Legislative Council which gives us the valuable assistance of an English lawyer, selected by the Home Government from among the profession on account of especial fitness; and I earnestly hope that no change will in this particular be allowed to take place.

In India Legislative Letter, dated 21 December (No. 25) 1843.

Extract Minute by the Honourable *C. H. Cameron*, dated 17 November 1843.

Parliamentum indoctum. *See* the account of the Parliament (6 Hen. 4). which was thus nicknamed by the lawyers, in revenge for their exclusion from it.—Blackstone's Commentaries, I. 177.

The Governor-General would abolish the fourth member and the Law Commission together. According to his Lordship, a *Parliamentum indoctum* is the proper legislature for India. I shall examine his reasonings on the subject at the close of this minute; in the meantime I concur with the majority of the Council in thinking that a member possessing a knowledge of law and jurisprudence is necessary to make up an efficient legislature; and I further agree with the majority, that "he should have (I quote from Mr. Bird's minute of 4 May 1843) a voice in all matters judicial, revenue, and commercial, as well as legislative." "He need not, perhaps," Mr. Bird continues, "have anything to do with political and military affairs, but unless he sees and becomes acquainted with everything connected with the internal civil administration, he cannot possibly discharge as he ought his legislative duties."

The four member may perhaps be able to discharge his legislative duties by having all the papers on the subject transferred to the legislative department as soon as any legislative proposition is made upon it, but undoubtedly it would be a much more convenient arrangement that he should assist at the deliberations of the Council upon all matters of internal administration.

An instance lately occurred which illustrates the inconvenience of the present arrangement. A draft of a despatch to the Court of Directors was prepared, requesting that the opinions of the Attorney and Solicitor General, and of the law officers of the Company, might be taken upon a number of extremely important and extremely difficult questions of constitutional law arising out of the late Charter Act.

The secretary supposing this despatch to be in the legislative department, sent the draft to me, and as I differed from some of the opinions which seemed to be implied in the draft, and was also desirous of giving what assistance I could to the home authorities in the solution of the questions raised, I wrote a minute which I intended to accompany the despatch. It was decided, however, that the despatch was in the political, and not in the legislative department, and consequently my minute could not be admitted as a number in it. I do not suppose I shall be accused of setting up myself as an authority upon Indian constitutional law, when I say that I am convinced that the Attorney and Solicitor General and the Company's Council would have been glad, before making up their minds upon these questions, to have seen them discussed by a lawyer, whose position has naturally induced him to bestow a good deal of reflection upon them.

I would give, then, to the fourth member of Council complete means of information upon all matters, revenue and judicial, as well as legislative, and access to the debates of the Education Council for that purpose, but I would not cast upon him the responsibility which belongs to the other councillors in revenue and judicial matters, lest he should not have the time necessary for maturing legislative measures; I would make his connexion with the revenue and judicial department entirely subsidiary to his legislative duties.

Extract Minute by the Governor-General, dated 25 November 1843.

Mr. Cameron appears to be under the impression that a gentleman who has been called to the bar in England must, if he should be appointed legal member of the Council, be peculiarly

peculiarly competent to legislate for India; and that without the presence of such legal member the Legislative Council would be a "*Parliamentum indoctum*."

In truth, however, if any member of the Council be peculiarly entitled to the term "*Indoctus*," it is rather the English barrister who knows nothing of India, than the old servant of the Indian Government who has for 30 or 40 years been acquainted with the people, and with the various branches of the administration. It is for statesmen to decide upon the objects of legislation; it is well for them to be enabled to avail themselves of the aid of barristers in framing laws, but the proper function of a barrister is to know the law, and to explain it.

Any sound lawyer of established repatation can afford to the Government of India all the aid it can require in legislative as well as in legal matters, without being made a member of the Council; and certainly there is nothing in Mr. Cameron's minute to change my previous opinion that all such aid as is required can be more conveniently rendered by a barrister in the position of Advocate-General, than in that of member of Council.

EXTRACT Minute by the Honourable *W. W. Bird*, dated 5 December 1843.

5. I NOW broadly state it to be my opinion that no man, let his talents be what they may, and whether he be a member of Council or a Law Commissioner, is qualified to legislate for India unless he takes a part in all matters judicial, revenue, and commercial, as well as legislative, and has the opportunity of becoming practically acquainted with the civil administration of the country. I draw no invidious comparisons between members of Council and Law Commissioners, but this I say, and it is the result of considerable experience of both, that so long as either of them see nothing of what is going on, and take no part in the general Government, they cannot possess the local knowledge and experience necessary to qualify them for discharging as they ought their legislative duties.

In India Legislative Letter, 16 March (No. 6) 1844.

(No. 1.)

EXTRACT India Legislative Consultations, 16 March 1844.

MINUTE by the Right Honourable the Governor-General, dated Benares, 18 February 1844.

THE Court of Directors, in their letter dated the 29th November 1843, have intimated their "desire that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations," but have at the same time cautioned us to bear in mind, that at such meetings only is he entitled to a voice at our proceedings.

It is impossible to regard this otherwise than as a mere expression of the opinion and wish of the Court. If the words used could be regarded as conveying a "direction," by virtue of such direction the fourth member of Council would become entitled to sit at meetings not held for the purpose of passing laws and regulations; but the last Charter Act expressly provides that the fourth member of Council shall not be entitled to sit or vote in the Council except at meetings thereof for making laws and regulations, therefore any such "direction" given by the Court would be altogether invalid, because inconsistent with the Act of Parliament, from which alone the Court derive their authority. (3 & 4 Will. 4, c. 85, s. 40.)

The Council of India, as established by the Act of Parliament, is as much a part of the constitution of India as the Court of Directors, and it is the duty of the Council to guard with jealousy its rights, to resist all infringement of its powers, and above all to treat as utterly null every direction which, if obeyed, would change its composition.

Considering, however, that the Court can only have intended to convey an intimation of their opinion and of their wish, and not to send a direction which they are not by law competent to give, we may properly show our respect for the opinion of the Court by carrying into effect their wish that the fourth member of Council should sit at meetings of the Council not held for the purpose of making laws and regulations in as far as it may appear that his presence may not be injurious to the public service; but it must at all times be borne in mind that above all things secrecy in Council and promptitude of action are essential to the successful conduct of public affairs in India, and it must also be understood that any individual member of the Council may at any time, if he shall see fit, require that any person shall withdraw from the Council who is not entitled to sit therein by the Act of Parliament.

(signed) *Ellenborough.*

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(No. 2.)

Minute by the Honourable *W. W. Bird*, dated 24 February 1844.

Court of Directors' letter, dated 29 November 1843, regarding the fourth member of Council.

I have seen the Minute of the Governor-general, dated the 18th instant, on the letter from the Honourable the Court of Directors, intimating their desire that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations, and reminding us at the same time, that at such meetings only is he entitled to a voice in our proceedings.

The intimation from the Honourable Court has confessedly been made in consequence of the opinion expressed here, and by no means more strongly than myself, regarding the unfitness for exercising legislative powers of those who see nothing of the internal administration of the country. This unfitness, after long observation, has struck me so forcibly, that I have not hesitated to ascribe to it the differences of opinion which have almost uniformly been found to exist between the Government and the Law Commissioners on almost every legislative project which has come under discussion; and I continue to think it absolutely necessary, for the full efficiency of the fourth member of Council, that he should attend not merely the legislative meetings, but all meetings at which the civil administration of India may be brought under consideration.

With these views, and in deference to the wishes of the Honourable the Court of Directors communicated in reply to our own representations, I would suggest that the fourth member of Council be summoned to attend all meetings in the Home Department, and that the papers connected with that department be regularly circulated for his perusal in common with the other members.

In regard to his being required to withdraw at any time, I do not think that any individual member should have the power of enforcing such a requisition without the concurrence of the other members, but he may propose his withdrawal, and the question must be determined, as in all other cases, by the voice of the Council at large.

(signed) *W. W. Bird.*

(No. 3.)

Minute by the Honourable *T. H. Maddock,* dated 26 February 1844.

Court's letter regarding the fourth ordinary member of Council, and his presence in Council at consultations not on legislative subjects.

If not absolutely necessary, it is, I think, highly desirable that the fourth ordinary member should be generally present in Council at all our deliberations on subjects connected with the internal administration of the country, and we shall, I conceive, sufficiently meet the expressed wishes of the Honourable Court by summoning Mr. Cameron to attend and be present at the Council Board during the proceedings of Government in the Home as well as in the Legislative Department. It appears quite unnecessary to require the attendance of the fourth ordinary member at those meetings of the Council which are devoted to the consideration of military and political questions; and it may be considered objectionable in principle that, being an irresponsible party, he should be allowed to be present at times when the Government may be deliberating on questions of foreign policy of war or of peace, or on any matters requiring secresy.

If the attendance of the fourth ordinary member is limited, as here proposed, I can hardly contemplate the possible occurrence of the necessity for so unpleasant a measure as that of desiring him to withdraw.

The only objection that can be made to Mr. Bird's recommendation, that all papers in the Home Department should be sent to the fourth ordinary member for his perusal before they are considered at the Council table, is the additional delay which will attend the circulation of the papers, and that may be avoided by arrangements to ensure promptitude in the circulation of such papers as require dispatch.

(signed) *T. H. Maddock.*

(No. 4.)

Minute by the Right Honourable the Governor-General, dated 28th February 1844.

Inasmuch as the fourth member of Council is not entitled by Act of Parliament to sit in Council, except at meetings thereof for the making of laws, it must of necessity be in the power of any member of the Council to desire that the fourth member should withdraw from any Council not held for that object, that is, to require the due observance of the Act of Parliament. It may very possibly never be deemed necessary by any member of the Council to exercise this his undoubted privilege; but in a minute referring to the law, it was necessary clearly to state what the law is, and to guard jealously all the privileges of those who are alone entitled on all occasions to sit and vote in the Council of India.

(signed) *Ellenborough.*

(No. 5.)

From the Government of India to the Honourable *C. H. Cameron*, dated Council Chamber, 4 March 1844.

Honourable Sir,

We are of opinion that a more extensive knowledge than you are at present enabled to obtain of the revenue and judicial administration of the country, would tend to facilitate the performance of your duties as a Legislative Councillor: and we propose, should you concur with us in this opinion, to communicate to you such more important papers connected with those two branches of the Civil Government as may seem to be calculated to afford you valuable information with respect to its details.

We likewise propose to request your attendance in the Council when important matters connected with the revenue and judicial administration may be under consideration. You must be aware that the matters which come before the Council even in the Civil Departments generally press for early, if not immediate decision, and that any arrangement intended to facilitate your acquisition of a knowledge of the details of the administration must be so guarded as not to diminish that promptitude of action which is essential to the conduct of affairs in India.

We have, &c.
(signed) *Ellenborough.*
W. W. Bird.
Wm. Casement.
T. H. Maddock.

(No. 6.)

From the Honourable *C. H. Cameron* to the Governor-General in Council, dated 7 March 1844.

Right Honourable Lord and Honourable Sirs,

I have the honour to acknowledge the receipt of your letter of the 4th instant. In that letter you inform me that you are of opinion that a more extensive knowledge than I am at present enabled to obtain of the revenue and judicial administration of the country would lead to facilitate the performance of my duties as a Legislative Councillor; and that you propose, should I concur with you in this opinion, to communicate to me such more important papers connected with those two branches of the Civil Government as may seem to be calculated to afford me valuable information with respect to its details.

In answer, I beg to state, that I do entirely concur in the opinion you have expressed, and that I shall be happy to have such papers as you have described communicated to me.

You further inform me, that you propose to request my attendance in the Council, when important matters connected with the revenue and judicial administration may be under consideration.

I shall most readily attend as fourth member of Council at any meetings of the Council at which you may think my attendance can be advantageous to the public service.

With respect to the arrangements intended to facilitate my acquisition of a knowledge of the details of the administration, I have no doubt you will take care that they shall be as effectual for that purpose as is consistent with the due performance of your own executive functions.

I have, &c.
(signed) *C. H. Cameron.*

In India Legislative Letter, 15 July (No. 14) 1850.

That part of the last Charter Act which relates to the constitution of the Government of India, contains the following provision:

"And that the fourth ordinary member of the Council shall from time to time be appointed from amongst persons who shall not be servants of the said Company by the said Conrt of Directors, subject to the approbation of His Majesty, to be signified in writing by his Royal sign manual, countersigned by the President of the said Board; provided that such last mentioned member of Council shall not be entitled to sit or vote in the said Council, except at meetings thereof for making laws and regulations." (3 & 4 Will. 4, c. 85, s. 40.)

The Honourable the Court of Directors, in communicating their views on the above Act, remarked as follows:—

Para. 19. "While thus considering the deliberative part of your duties, our attention is necessarily led to one important alteration which the Act has made in the constitution of the Supreme Council. We allude to the appointment of the fourth ordinary member of the Council, as described in the 40th clause. (Public letter (No. 44) of 1834, dated 10 December.)

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20. "In the first and simplest view of this remarkable provision, the presence and assistance of the fourth councillor must be regarded as a substitute for that sanction of the Supreme Court of Judicature, which has hitherto been necessary to the validity of regulations affecting the inhabitants of the Presidencies, which under the new system will no longer be required. It is, however, evident that the view of the Legislature extended beyond the mere object of providing such a substitute.

21. "The concurrence of the fourth member of Council may be wanting to a law, and the law may be good still, even his absence at the time of enactment will not vitiate the law; but Parliament manifestly intended that the whole of his time and attention, and all the resources of knowledge or ability which he may possess, should be employed in promoting the due discharge of the legislative functions of the Council. He has, indeed, no preeminent control over the duties of this department, but he is peculiarly charged with them in all their ramifications. His will naturally be the principal share, not only in the task of giving shape and connexion to the several laws as they pass, but also in the mighty labour of collecting all that local information, and calling into view all those general considerations which belong to each occasion, and of thus enabling the Council to embody the abstract and essential principles of good government in regulations adapted to the peculiar habits, character, and institutions of the vast and infinitely diversified people under their sway.

22. "It will be observed that the fourth member is declared not to be entitled to sit or vote in the Council, except at meetings for the making of laws and regulations.

23. "We do not, however, perceive that you are precluded by anything in the law from availing yourselves of his presence without his vote on any occasion on which you may think it desirable. And in many, if not all of the subjects on which your deliberations may turn, an intimate knowledge of what passes in Council will be of essential service to him in the discharge of his legislative functions. Unless he is in habits of constant communication and entire confidence with his colleagues, unless he is familiar with the details of internal administration, with the grounds on which the Government acts, and with the information by which it is guided, he cannot possibly sustain his part in the legislative conferences or measures, with the knowledge, readiness, and independence essential to a due performance of his duty."

The Honourable Mr. Macaulay, on the occasion of taking his seat as fourth ordinary member of Council, recorded the following minute respecting his position in Council:

Minute by the Honourable Mr. Macaulay, dated Ootacamund, 27 June 1834.

"I feel it to be my duty on entering upon my new functions to bring under the notice of his Lordship in Council the great difficulties of the situation in which I am placed. The clause of the Act of Parliament which defines my powers is so worded, that until it is explained by some competent authority I shall be constantly in doubt as to the course which I ought to pursue. I shall scarcely ever be able to act without an apprehension that I may be intermeddling in what does not concern me, or to refrain from acting without an apprehension that I may be shrinking from labour and responsibility which it is my duty to encounter.

2. "As I was a member of the House of Commons and Secretary to the Commissioners for the Affairs of India during the year 1833, I should have been inexcusable if I had not given the closest attention to the provisions of the Act. It may be thought therefore that I ought to be able to furnish explanations instead of being forced to ask for them. I hope that in my own vindication, and without the least disrespect to any branch of the Legislature, I may be permitted to mention what is now matter of history, that the words of which I desire to have an explanation were not in the Bill when it passed the House of Commons, but were added at a very late stage; I think on the third reading in the House of Lords.

"The words to which I refer are these: 'Provided that such last mentioned member of Council shall not be entitled to sit or vote in the said Council, except at meetings thereof for making laws and regulations.'

3. "India, then, is under the government of two Councils, differently composed, the one a legislative, the other an executive body. It seems to me that something more than the words which I have quoted was required to define the provinces of these two authorities. During the last 60 years many constitutions have been framed in Europe and in America, and I will venture to say that there is not one of those constitutions in which it has not been thought necessary to draw the line between the functions of the executive and those of the legislative body with a degree of care and precision very different from what is to be found in the words which I have quoted.

4. "And the reason is obvious. The line which separates legislative from executive proceedings is not a natural but an arbitrary line. It is differently drawn in different countries at the same time, and in the same country at different times. In England the declaring of war is an executive act. By the constitutions of some other countries it is a legislative act. In England, at present, the executive power can pardon any criminal. In the time of the Commonwealth the Protector could not pardon murder. An Act of the Legislature was necessary. Indeed the history of the East India Company furnishes an excellent illustration of my meaning. It was long disputed among lawyers whether the exclusive commercial privileges once enjoyed by that body could be legally conferred by the executive power, or whether an Act of the Legislature was necessary. In Elizabeth's time the

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the doctrine favourable to the executive power was generally admitted. Since the Revolution it has been almost universally held that an Act of Parliament alone could give a monopoly to any person or corporation. It would be easy to multiply instances. But those which I have given are sufficient to show that the line between legislative and executive proceedings is very differently drawn in different places and in different ages.

5. "Where then is it to be drawn in the Indian Government? The Act of Parliament constitutes an Executive and a Legislative Council. But it makes no partition of power between them. Hitherto no doubts could arise, because there was a single body which possessed the whole power, legislative and executive. Under the new system doubts will arise every day, unless something be done to set them at rest.

6. "In the absence of all explanatory words it seems not unnatural to suppose the intention of the Legislature to have been, that the partition of power in the Government of India should be analogous to that which exists in the Government of England; that the Executive Council should exercise the same prerogatives which at home belong to the Crown, and that an Act of the Legislative Council should be necessary in all cases in which, at home, an Act of Parliament is required. If we put this sense in the clause, and I am unable to find any more probable sense, it follows that the army cannot be augmented in time of peace, that taxes cannot be imposed even for local purposes, that money cannot be borrowed on the public faith of the Indian empire without a vote of the Legislative Council. No state prisoner can be detained in custody without such a vote. No treaty with any neighbouring power, stipulating for any payment of money on our part, will be binding without such a vote. It is plain that, if this rule be adopted, the Legislative Council will exercise in India, as the Parliament exercises in England, a control over almost all the proceedings of the Executive Government. Though the fourth member may have no vote on a question, for example, of going to war, yet he will have a vote when the question is about furnishing the sinews of war, and his opposition in the question of supply may prevent the Executive Council from carrying its purposes into effect, or may force the Governor-General to have recourse to his extraordinary authority.

8. "Whether this be or be not the sense in which the words of the Act are to be understood, I am altogether in doubt. I wish these doubts to be submitted to the Court of Directors; and until an explanation shall arrive from home, I shall leave it to the Governor-General and the other members of the Council to determine what share of the public business they will assign to me, neither intruding myself into any deliberations from which they think that I ought to be excluded, nor declining any labour, or any responsibility, which they may invite me to share with them."

The Governor-General (Lord William Bentinck) recorded his views on the subject as follows:—

Minute by the Governor-General, dated Ootacamund, 31 July 1834.

"In reference to Mr. Macaulay's minute of the 27th June, respecting his own position in Council, I feel it to be unnecessary for me, even were I competent to the task, to offer any opinion upon the legal and constitutional difficulties he has so clearly described, and which can only be solved by the authorities to whom they have been addressed.

2. "There is, however, another view of this subject, precisely bearing upon the same point, that is much less complicated and theoretical, and more within the reach of my humble judgment, which seems to me quite as deserving of consideration as the questions proposed by Mr. Macaulay.

3. "I shall first assume, what indeed is my opinion, that the new Act has not altered the character of the Council, that it is one and the same for executive and legislative purposes; that in its executive capacity it can make peace and war, raise money, and do all that it has heretofore done, without requiring the interference of the same Council, in its legislative capacity, to give validity to its acts, and that the only restrictions imposed upon its power of legislation are, that in making laws it must have the advice of the fourth member, and that no law can pass unless three ordinary members be present at the Council: and it is further directed, that the fourth member shall not be entitled to sit or vote in the Council except at meetings for making laws and regulations, which must mean that he shall take no part; perhaps that he shall not even be present.

4. "It is this particular point, the exclusion of the fourth member from the ordinary sittings of the Council, to which I wish particularly to advert as detracting very much from his usefulness, if not incapacitating him from the very important duties confided to him by the Legislature. Mr. Macaulay has never been in India, and he and his successors, like the greater part of the past, and probably of future Governors and Governor-Generals, is a stranger. As a stranger to the country for which he is to play the principal part in making laws and regulations, he certainly may give most useful advice to the Council in the drawing up of their laws, so that they shall contain nothing either repugnant to the laws of England, or at variance with the enlightened spirit of the age. All this knowledge, which the fourth member may be supposed peculiarly to possess, will be highly useful in giving simplicity and clearness to our laws, in rendering them more philosophical, and therefore better and wiser, and more likely to harmonise with the feelings of the distant races which we have to govern. But all this is the mere theory of the art which he is come to exercise. Where is he to gain his practical knowledge of the state of society, of its manners, its feelings, and

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its customs? How is he to discover what there is to remedy, to reform, or to preserve? How is he to discover the abuses or the imperfection of our administration in any of its branches, revenue, judicial, or police? How is he to become acquainted with the effect of the existing laws and institutions upon the immense population? He must learn all this somewhere, or he must be a poor legislator; from the people themselves, the main objects of his care, he will learn nothing; they are not consulted, and hitherto they have had no means of making themselves heard. With them he can have little intercourse, and to the greater part of the European residents any correct information upon all these details is as inaccessible as to himself; he can only learn his lesson in the same way that all Governors, who have been strangers, have done before him, by following day by day the reports of all the functionaries of the empire, and by hearing in every week's consultations, not an insulated opinion only, which might be gained elsewhere, but the general discussion of all questions, and the results of the long experience of the able and responsible men who compose the Council. The proceedings of the Government contain the only real record of present life, and of the actually passing condition of India; although I must admit that these must remain but a very imperfect index either to the feelings of the people, or to the effect of our laws and regulations, until the natives themselves can be more mixed in their own government, and become responsible advisers and partners in the administration. In short, I cannot but think that the introduction of this restriction, as it seems to have been a late and sudden act, was not well considered; for it cannot surely be advisable, at the same time that you declare the Council, as hitherto constituted, to be lame and insufficient for the purposes of legislation, thus to blindfold the single guide appointed to conduct them in their way.

5. "I might stop here, but I will beg leave to say further, that in my judgment the exclusion in question operates as prejudicially upon the general Executive Government, as it does upon the same Council in its legislative capacity. I have upon another occasion suggested the advantage to our judicial administration of introducing into our superior courts, strangers, not mere English lawyers, but men well acquainted with the science and philosophy of law, who might look into the practice of our courts, and into the actual working of our regulations in the Mofussil, unbiassed by ancient prejudice, or the exclusiveness of the civil service, and who might be able to point out how the modern improvements of Europe could be brought to bear upon the Indian system. In like manner I feel about the Council. There has been created a new appointment which will always be filled, it is to be presumed, by a man of the first talent, and of the highest attainments. Why cast away the prodigious benefit to be derived from such an adviser in a Council of four only, to whom such mighty interests are entrusted? It has happened that the Council of India, since its formation, has been as much occupied with the execution of the provisions of the new Bill and with legislation as by other matters, and I have therefore felt it my duty always to call for the assistance of a full Council; and I have considered myself peculiarly fortunate in the occasion that has placed Mr. Ironside's services at my disposal; I am satisfied there is not a member of the Council that would not readily testify to the very great value of the aid we have derived from the fourth member in the decision of the many difficult and important questions that have come before us. In the course of these consultations, I have felt the difficulty of exactly interpreting the meaning of the clause respecting the fourth member's duties. When and where does legislation begin? In every Council, particularly in the Political Department, questions have come before us appertaining to international law, reciprocal jurisdiction, claims for fugitives, &c.; and again, in establishing an administration, comprehending the whole internal management, both in the Mysore and Coorg, both countries not yet within the pale of our territories; do such subjects come within the province of the fourth Councillor's interposition? There are many representations and references to each Council in the other departments, save the military, upon which the question may, and does often arise, whether some legal enactment should not take place. Is it at this stage of the deliberation, or when the framing of the law has been determined, that we are to call in the fourth member? There will be endless doubts upon this point, and I will take the liberty of stating an opinion as to a result which will not have been in the contemplation of the inventor of this exclusion, that with this latitude of construction, as Governor-General, if he so fancies, will have it in his power to make a mere cypher of this important personage."

Political letter to Court (No. 10), dated 9 August 1834.

Copies of the two foregoing minutes were forwarded for the consideration of the Honourable the Court of Directors, who, without taking any notice of the particular point referred, viz., "the exclusion of the fourth member from the ordinary sittings of the Council," forwarded the opinion in the negative of the law officers, on the following question raised by the remarks entered in the margin, contained in Mr. Macaulay's minute:

> "Whether the Governor-General of India has the power of overruling the opinion of the majority of the Council of India, in a matter strictly legislative, and of making, altering, repealing, or suspending laws and regulations, and of imposing any tax or duty of his own authority."

Legislative letter (No. 1) of 1835, dated 27 February: "The fourth member of Council may have no vote on a question, for example, of war, yet he will have a vote when the question is about furnishing the sinews of war; and his opposition on the question of supply may prevent the Executive Council from carrying its purpose into effect, or may force the Governor-General to have recourse to his extraordinary authority."

Minute by Mr. Prinsep, dated 11 June.

In the course of the discussions that took place in 1835, as to the general principles on which rules for regulating the legislative proceedings of the Government of India ought to be framed, Mr. Prinsep considered the draught of the standing orders prepared by Mr. Macaulay to be defective, and suggested the expediency of keeping distinct the functions

tions of the Legislative and Executive Council. It is not necessary to enter here Mr. Prinsep's propositions, as Mr. Macaulay, in the following reply, has embodied them fully.

Legislative Cons., 6 July 1835, (No. 10).

Minute by Mr. Macaulay, dated 13 June.

Legislative Cons. 6 July 1835, (No. 11).

"Mr. Prinsep proposes that all the drafts of laws which are sent up by the subordinate Governments, shall, before they are laid before the Legislative Council, be considered by the Executive Council in the department to which they belong; that the Executive Council may amend them; that the Executive Council may frame and may discuss within itself drafts of laws, and then submit them to the Legislative Council; that all correspondence with all subordinate authorities, with the Law Commission, and with the local Governments, shall be carried on through the Executive Council only.

"Now, if it be meant merely to put the Executive Council as an organ of communication between the Legislative Council and other authorities, if the consideration of drafts by the Executive Council is to be merely formal, if the letters written on matters connected with legislation, by order of the Executive Council, are to contain merely what the Legislative Council has directed, and if the answers are to be submitted to the Legislative Council for orders, though I think such a system in the highest degree cumbrous and inconvenient, yet, if persons more versed in Indian affairs than I am conceive that there is any advantage in it, I will not oppose it. I am at a loss to conceive what benefit it can produce, unless delay, perplexity, and the multiplication of unnecessary letters of transmission be benefits.

"But I do not understand this to be Mr. Prinsep's meaning; I understand him to propose that the Executive Council of India shall be competent to perform all acts incident to legislation, except the final passing of a law. I have not the smallest hesitation in saying, that this proposition is in the highest degree pernicious, and directly opposed to the spirit and letter both of the Act of Parliament, and of the instructions of the Court of Directors.

"If Mr. Prinsep's resolution be adopted, a draft of a law of the highest importance may be sent to Calcutta by the Governor of Fort St. George in Council; the Executive Council may have this draft before them for a considerable time in the Judicial or Financial Department: long minutes may be recorded in it by the Governor-General, and by the three senior members of Council; fresh information may be called for; circulars may be sent all over the country; a copious correspondence may take place with the Madras Government; references may be made to the Law Commission, and answers received; this may go on for six months, and during all this time the fourth member of Council, sent to this country expressly for the purpose of legislation, solemnly reminded by the Court in their late despatch, that though all the members of the Council are entitled to propose and discuss laws, his time and faculties are to be peculiarly devoted to that department of public business, considered both here and at home as especially responsible for the manner in which the work of legislation is carried on, could have no right to see a single paper, or to hear a single discussion, and would certainly be precluded from voting on any question, and from recording any opinion.

"By the kindness of the late and present Governor-General and of my colleagues, I have been permitted to see every public document, and to assist at every deliberation. But this may not always be the case. A Governor-General may be on bad terms with the fourth member of Council. Such a Governor-General would be borne out by the letter of the Act of Parliament in excluding the fourth member from all knowledge of what was doing in the Executive Departments of the Government. Mr. Prinsep proposes to transfer to the Executive Departments half the business of legislation. If this course be adopted, it will be in the power of the Governor-General to oust the fourth member of Council from the greater part of his legislative functions.

"I deny both the expediency and the legality of such an arrangement; I deny the expediency of admitting a person to vote on the passing of a law, who has not been admitted to take part in all the preceding discussions on it. I deny the legal right of the Council of India to exclude the fourth member of Council while they are deliberating on a draft of a law in the Financial or Judicial Department. I claim for myself and my successors a legal right to record an opinion and to give a vote, not merely on the final passing of a law, but on every question which may arise respecting a law in any of its stages. The Council, I trust, will not decide against this claim without a reference home.

"I have done my best to make out the reasons on which Mr. Prinsep grounds his proposition. But I am quite at a loss to understand them. He says that the public authorities must not be taught to believe that they have two masters. That question is for higher authority than ours. Parliament has thought fit to confide the executive government of India to one body, and the supreme legislative power to another body. If this be an evil, let us apply to the home authorities to rid us of it; indeed, we have already done so. The Council at Ootacamund agreed in recommending to the Court of Directors that proper measures should be taken for removing the restriction laid on the fourth member of Council. But as the law now stands, the Indian empire has two masters, and we cannot repeal the law. There is a Supreme Executive Council and a Supreme Legislative Council; and whether this be a convenient arrangement or not, we cannot lawfully transfer the functions of the Supreme Legislative Council to the Executive Council."

Further discussions on the above points were avoided by the Government of India determining not to consider the Legislative Council as distinct from the Executive Council, but that there should be but one Council, with a separate Legislative Department; the fourth member being understood to have a legal right to be present in any department where laws, or matters immediately connected with laws, might be under discussion.

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Legislative letter (No. 2) of 1835, dated 24 August, p. 516.
Legislative letter (No. 4) of 1837, dated 1 March.

The above resolution was communicated to the Court of Directors, who, without taking any notice of the determination come to by the Government of India, simply expressed their approval of the standing orders.

Almost simultaneously with the above communication, the Government of India, in replying to the Court's public despatch of the 10th December 1834 (entered at the commencement of this paper), made the following intimation:—

Legislative letter (No. 3) of 1835, dated 31 August, p. 516 Duties and powers of the fourth ordinary member.

Para. 12. "Feeling the full force of your Honourable Court's observations on the expectations with which the situation of fourth member of our Council was created, and entirely coinciding in the opinion expressed in these paragraphs of the advantage which must result to the legislative utility of that member, by his being intimately acquainted with the whole of the executive business of the Council, we are happy in being able to report that we had anticipated the recommendation made in the 23d paragraph of this despatch, by requesting the attendance and assistance of Mr. Macaulay at every meeting of our body."

Legislative letter (No. 3) of 1835, dated 8 July.

Previously to the receipt in England of the above despatches, the Court wrote out that they had several times observed the signature of the fourth member of the Council of India annexed to despatches relating to matters not connected with the making of laws and regulations, though he could not be present at deliberations on such matters as a member of Council. The Court considered the signature of the fourth member to a document, in respect to which he shared none of the responsibility, to be an irregularity which ought not to exist, and required it to be discontinued. This injunction has been attended to.

The fourth member continued to be present at all meetings of the Council down to the close of the administration of Lord Auckland in February 1842. On the assumption of the Government by Lord Ellenborough, it was determined, without any note on the subject being placed on record, to restrict the attendance of the fourth member to meetings of the Legislative Council, unless invited specially, when important matters connected with the judicial and revenue administrations might be under consideration.

Legislative letter (No. 23) of 1842, dated 5 August.
Legislative letter (No. 3) of 1843, dated 1 March.

In August 1842, Mr. Amos signified his intention of resigning office early in the following year, and this intimation was considered by the Court of Directors to present a fitting opportunity for reconsidering the constitution of the Legislative Council and the functions of the Law Commission, and the sentiments of the Government of India were called for to enable the Court to decide how far it might be expedient to apply to Parliament to rescind or modify the provisions of law under which those offices were created.

Mr. Amos, on the eve of retiring, recorded a minute on the subject of the Indian Law Commission, in which the following paragraph occurs respecting the office of fourth member of Council.

Minute by Mr. Amos, dated 27 January 1843.
Legislative Cons. dated 7 April 1843 (No. 18).

"It is here necessary to observe, that the business of Council may be thought to press somewhat less heavily on the president of the Commission, if the course be continued of excluding the fourth member from being present at meetings of Council, during the transaction of the business of any other department than the legislative. This course, which is in strictness quite legal, and is most consonant to the Act of Parliament, was adopted when Lord Ellenborough assumed the Government, though, I believe, by no means in consequence of the opinions or wishes of the other members of Council. Lord W. Bentinck and Lord Auckland * have both written minutes in favour of the practice which has been superseded, and the Court † has especially approved of that practice. There can be no doubt, I think, that the new course must render the legislative member much less efficient in the discharge of his peculiar duties, especially for the first two or three years after his arrival, whilst in the departments of Government, in the deliberations of which he used to be present without interfering, an immediate reference to him, or occasional suggestion by him on purely legal points, has, I am satisfied, often been found highly convenient. It may perhaps be thought that the time which, according to the new course, has been saved to the fourth member from the business of Council, will not be wholly gained for the Commission. For very often the discussions occurring on papers in other departments of Government than the legislative, but which have led to some legislative measures, have, I am persuaded, obviated the necessity of my making inquiries which would have consumed much more time, and would probably have been much less satisfactory."

* There is no minute by Lord Auckland on the subject.

† Probably the Court's letter, of the 10th December 1834, is here alluded to.

Legislative letter (No. 1) of 1843, dated 22 April.

On receipt of the Court's despatch of the 1st March 1843, above referred to, the Governor-General (Lord Ellenborough), then at Agra, recommended the doing away with the offices of fourth member of Council, and of the Law Commission. His Lordship was of opinion, that "if the Advocate-General be a lawyer of knowledge and ability, the Governor-General in Council can want no other legal adviser;" that the legal member of Council had "hardly anything really to do;" and that his labours, and those of the Law Commissioners, were necessarily of an injurious and dangerous tendency, viz., creating legislation not absolutely required, and thereby disturbing and agitating the minds of the people, while the Acts, bearing about them much of the peculiar English character, were as ill-suited as possible to the people of India.

On this occasion the President of the Council (Honourable W. W. Bird), recorded the following observations:—

Minute by Mr. W. W. Bird, dated 4 May 1843.

Para. 2. "In respect to the fourth ordinary member of Council, it is obvious that drafts of laws which are to affect the rights of British subjects in India, and to be binding on the Supreme

Supreme Court, should pass under the revision of one or more persons thoroughly conversant with English law. But this can seldom occupy at most more than a few hours in a week; and as the fourth member is precluded from attending Council except at the legislative sittings, to retain an officer on so high a salary with so little to do is a very expensive arrangement. I have heard it suggested that the Advocate-general might supply his place, and to this I am aware of no objection so long as the Government of India is stationed at Calcutta, but he could not be conveniently separated from his duties in the Supreme Court; and were circumstances to render necessary the removal of the Government to any place at a distance from the Presidency, it would be very difficult to find a qualified substitute. I have also heard it suggested that the Chief Justice of the Supreme Court might be *ex officio* fourth ordinary member of Council, but to this arrangement there is the same objection in the event of the removal of the Supreme Government from Calcutta, and there may be others of a professional nature. In short, although the present arrangement is not what it ought to be, it is not easy to determine what should be substituted instead of it, and a law member in some shape or other is, as all must admit, indispensably necessary." Legislative Cons., 10 May 1843 (No. 1).

Mr. Bird further remarked, "And as a law member in some shape or other cannot, I think, be conveniently dispensed with, he too should have a voice in all matters, judicial, revenue, and commercial, as well as legislative. He need not perhaps have anything to do with political and military affairs, but unless he sees and becomes acquainted with everything connected with the internal civil administration, he cannot possibly discharge as he ought his legislative duties."

The Honourable Sir Herbert Maddock, Knight, showed by the following remarks that the fourth member of Council could not, in his opinion, be dispensed with:—

"But if the Law Commission is dissolved, that very circumstance would make me averse to dispense with the services of a law member of Council. If that office is retained, it may afford in some measure a substitute for the Commission. And I do not see how the business of legislation could go on satisfactorily without such an officer. Minute by Sir Herbert Maddock, Knt., dated 8 May 1843. Legislative Cons., 10 May 1843 (No. 2).

"Since the passing of the Charter Act in 1833, great advantage has attended the presence in Council of a member of the Government competent to advise it on doubtful points of law at the moment when they occur. Hearing and entering into such discussions as take place at the Council Board regarding proposed Acts of the Legislature, he becomes thoroughly informed of the views of Government, and is enabled to prepare drafts of laws with an accuracy and promptitude that could hardly be expected under any other arrangement. The general legislation of the Government has by this aid proceeded without communication with the Law Commission, and the most important laws have been passed without any reference to that body. The business of legislation would be greatly retarded if the Government had to consult any one out of Council on every act pending or in contemplation.

"Since this Government was empowered to make laws for British subjects, as well as for the natives of India, and for Her Majesty's courts of judicature, as well as for those of the East India Company, it has become indispensable, in order to avoid faulty legislation, that the Council should have at its command the services and advice of an English lawyer, eminent in his profession, whose name will give weight and respect to his opinions. This object can in no way be more conveniently attained than under the present system, to which I am aware of no objections but such as may be urged on the score of expense.

"And if the appointment were abolished, the expense attending it could not be entirely saved. We must still have some lawyer of eminence out of Council to whom we may refer, and the salary must be high to induce such a man to come to India. Before the passing of the Charter Act, the only law adviser of the Government was the Advocate-general in the Queen's Court in Calcutta, and that officer is still frequently referred to for his advice or opinion on points of law. His salary, as Advocate-general, is 4,000 *l.* per annum, added to which he may have the advantage of lucrative practice in the Supreme Court. If the office of law member of Council, as well as the Law Commission, were abolished, the Government would necessarily have to consult this officer, or some other legal authority, on every act of legislation affecting the principles or the practice of English law, and the Government business would fall so much heavier than heretofore, that it would disable the Advocate-general from attending to his general practice, and Government would be obliged either to restrict him from general practice and allow him a much higher salary, or appoint another officer, as Attorney-general, for instance, to take a portion of the Government business. It would not be advisable to adopt the first course, because a barrister in the Supreme Court, without the stimulus to exertion which liberty to practice there affords, would not be likely to possess either the knowledge or the habits of business that would enable him to compete with those in general practice, or to conduct well that part of the business of Government which is conducted in the court. If the second plan were adopted, and another law officer were appointed, it would be expedient to fix his salary on a scale sufficiently liberal to attract men of first-rate talent at the English bar. Less than 5,000 *l.* per annum would probably not suffice to secure this object. Then with two able and distinguished barristers in the service of Government to advise on all points of law, and to assist in drawing up Acts, &c., the business of legislation might be carried on. How far the plan would succeed must depend on the zeal, the talent, and the diligence of the law officers. The security for talent would depend on the amount of the salaries, and the judicious selection for these offices of the ablest barristers in England willing to undertake them. For their zeal and diligence there would be no practical security, and it is well known to the members of Council how much former Governments have been embarrassed by the want of those qualities in an Advocate-general

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general. But if we were secure of all the zeal, talent, and diligence that could be desired in these officers, I doubt whether the work of legislation could be carried on through their aid and advice so well and satisfactorily as it may be while we have for our colleague an able barrister taking an active personal share in that part of the labours of Government.

"In considering the propriety, or otherwise, of dispensing with the law councillor, and substituting such another arrangement as that just alluded to, it should not be forgotten that the Council of India is not necessarily stationary in Calcutta, where the Supreme Court is held, and where the officers of the court must needs remain. The Council may be removed to any part of British India, and in case of its removal, a dependence on the distant advice of its law officers would be found extremely inconvenient.

"The only other expedient which suggests itself for dispensing with the fourth member of Council is the substitution of a law secretary in his place; but it may be doubted whether then a lower salary than that drawn by the fourth member would be sufficient to secure the first-rate talents and legal knowledge that we require.

"But, on the whole, I consider that the fourth member of Council cannot be dispensed with.

"I entirely concur in opinion with Mr. Bird, that the law member of the Council of India should be present in Council at all meetings where matters relating to the general administration in the Home Department of the Government are under discussion."

Major-general Sir W. Casement recorded the following observations on the subject:—

Minute by Major-general Sir W. Casement, dated 9 May 1843.

Legislative Cons., 10 May 1843 (No. 3).

"It is impossible, I think, to deny, looking at all that has been done, and all that remains to us and to our successors to do, that a return to the old constitution of the Council, unassisted by legal learning and experience, would quite unfit it for the duties it has to perform. I do not know indeed that the authorities at home have any such measure in contemplation. But lest the idea should be entertained in any quarter, I would express my firm conviction, in accordance with the view taken by Lord William Bentinck's Government, that the presence of a learned and judicious English lawyer, as a member of the Legislative Council, is indispensable to a right exercise of the functions of the Indian Legislature. The aid which we have had from such a member, and which will be even more necessary as the Council advances to those difficult questions which I have shown yet remain for its consideration, could only in a comparatively very small degree be given by one or more of the judges of the Supreme Court, to whose employment in that capacity there exists at the same time, as has been remarked by Sir Edward Ryan in his Minute of 2d October 1839, the strongest objections, founded upon a principle of very general application, and upon the wisest and most enlarged views of political expediency, and the constitution of human society. The Advocate-general might, to a limited extent, supply the information which the Council would need, if it had no legal member. But the value of his advice would usually be less than under such circumstances the Council would require; his engrossing practice as a barrister would always be in the way of that deliberate attention to legislative measures which would be indispensably necessary to their success; and his position in other respects might be unfavourable to independent discussion, and would certainly prevent his taking part in the consideration of legislative questions with such readiness and freedom as is desirable, and which, I agree with the Honourable Court in thinking, will not be possessed by the legislative adviser of the Council unless he be one of their body, and present, if not actually taking a part, not only when laws are in debate, but in all the deliberations of the Government, political and military deliberations perhaps excepted.

"I repeat, therefore, that both from theory and from actual experience, I am strongly in favour of the continuance of that constitution of the Legislative Council which gives us the valuable assistance of an English lawyer selected by the Home Government from among the profession on account of especial fitness, and I earnestly hope that no change will, in this particular, be allowed to take place."

Legislative letter (No. 9) of 1843, dated 12 May. Legislative letter (No. 16) of 1843, dated 28 June.

The foregoing minutes were forwarded to the Court of Directors, who, previous to their receipt, having intimated that they were in possession of the views of the Governor-General (Lord Ellenborough), but would await the sentiments of the members of Government, a second series of minutes were recorded on the subject.

The Honourable Mr. Cameron remarked as follows:—

Minute by the Honourable Mr. Cameron, dated 17 November 1843.

Legislative Cons., 23 December 1843 (No. 1).

"I concur with the majority of the Council in thinking that a member possessing a knowledge of law and jurisprudence is necessary to make up an efficient legislature; and I further agree with the majority that 'he should have' (I quote from Mr. Bird's minute of 4 May 1843) 'a voice in all matters, judicial, revenue, and commercial, as well as legislative. He need not, perhaps,' Mr. Bird continues, 'have anything to do with political and military affairs, but unless he sees and becomes acquainted with everything connected with the internal civil administration, he cannot possibly discharge as he ought his legislative duties.'

"The fourth member may perhaps be able to discharge his legislative duties by having all the papers on any subject transferred to the Legislative Department as soon as any legislative proposition is made upon it, but undoubtedly it would be a much more convenient arrangement that he should assist at the deliberations of the Council upon all matters of internal administration.

"An instance lately occurred which illustrates the inconvenience of the present arrangement. A draft of a despatch to the Court of Directors was prepared, requesting that the opinions of the Attorney and Solicitor General, and of the law officers of the Company, might

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might be taken upon a number of extremely important and extremely difficult questions of constitutional law arising out of the late Charter Act.

"The Secretary, supposing this despatch to be in the Legislative Department, sent the draft to me, and as I differed from some of the opinions which seemed to be implied in the draft, and was also desirous of giving what assistance I could to the home authorities in the solution of the question raised, I wrote a minute which I intended to accompany the despatch. It was decided, however, that the despatch was in the Political, and not in the Legislative Department, and consequently my minute could not be admitted as a number in it. I do not suppose I shall be accused of setting up myself as an authority upon Indian constitutional law, when I say that I am convinced the Attorney and Solicitor General, and the Company's Council, would have been glad before making up their minds upon these questions to have seen them discussed by a lawyer, whose position has naturally induced him to bestow a good deal of reflection upon them.

"I would give, then, to the fourth member of Council complete means of information upon all matters, revenue and judicial, as well as legislative, and access to the debates of the Executive Council for that purpose; but I would not cast upon him the responsibility which belongs to the other councillors in revenue and judicial matters, lest he should not have the time necessary for maturing legislative measures; I would make his connection with the revenue and judicial department entirely subsidiary to his legislative duties."

The Governor-General (Lord Ellenborough) repeated his former opinion in the following words:—

3. "Any sound lawyer of established reputation can afford to the Government of India all the aid it can require in legislative as well as in legal matters, without being made a member of the Council: and certainly there is nothing in Mr. Cameron's minute to change my previous opinion that all such aid as is required can be more conveniently rendered by a barrister in the position of Advocate-general, than in that of member of Council."

Minute by the Governor-General, dated 25 November 1843.
Legislative Cons., 23 December (No. 2) 1843.

The Honourable W. W. Bird also repeated his sentiments in the following terms:—

"I now broadly state it to be my opinion that no man, let his talents be what they may, and whether he be a member of Council or a Law Commissioner, is qualified to legislate for India, unless he takes a part in all matters, judicial, revenue, and commercial, as well as legislative, and has the opportunity of becoming practically acquainted with the civil administration of the country. I draw no invidious comparisons between members of Council and Law Commissioners; but this I say, and it is the result of considerable experience of both, that so long as either of them see nothing of what is going on, and take no part in the general Government, they cannot possess the local knowledge and experience necessary to qualify them for discharging as they ought their legislative duties."

Minute by the Honourable W. W. Bird, dated 5 December 1843.
Legislative Cons., 23 December 1843 (No. 3).

Major-General Sir W. Casement adhered to the opinion he had formerly expressed:—

"In my minute of the 9th May last I reviewed the reasons which induced the present constitution of the Legislative Council, and the establishment of the Law Commission. I stated the objects which by the instrumentality of those bodies it was proposed to accomplish; I compared what had hitherto been effected with what had been designed, and showed how much difficult and important a work remained to be done. I traced the share of the Council and of the Law Commission respectively in the legislation which had taken place since the introduction of the new system; and inferring from past experience our prospects for the future, I decided that the expectations had been fulfilled under which the new constitution of the Legislative Council had been framed, and that it ought therefore to be continued, but that the Law Commission had not succeeded in its objects, and ought therefore to be abolished.

"Mr. Cameron's minute upon the same subject of the 17th ultimo, has given me the opportunity of again considering the question in all its bearings, and I have applied to it, and to the able and interesting paper of which he has now afforded us the advantage, all the attention which they may justly claim. I have found, however, no reason to alter the opinions I formerly expressed."

Minute by Major-general Sir W. Casement, dated 14 December 1843.
Legislative Cons., 23 December 1843 (No. 4).

The Honourable Sir Herbert A. Maddock, Knight, on a reconsideration of the question, did not see any reason for altering his views as to the expediency of abolishing the Law Commission and retaining the fourth member of Council.

Minute by Sir Herbert Maddock, Kt., dated 20 December 1843.
Legislative Cons., 23 December 1843 (No. 5).

These minutes were forwarded to the Honourable the Court of Directors, who, however, previous to their receipt, and having before them the sentiments of the Government conveyed in the first series of minutes, determined on the continuance of the office of fourth member of Council, and on the expediency of his presence at all meetings of the Council. The following is an extract from the Court's despatch:—

Legislative letter (No. 25) of 1843, dated 21 December.

2. "Considering the nature and extent of the legislative authority vested in the Government of India by the 3 & 4 Will. 4, cap. 85, we have come to the conclusion that the appointment of fourth member of Council cannot, without detriment, be dispensed with. We have also adverted to the opinion of former Governments, in which you have expressed a general concurrence, that it is of importance, with a view to the efficient performance of the duties belonging to that appointment, that the person filling it should be present at all meetings of Council for the administration of the affairs of Government. In conformity to that opinion,

Legislative letter (No. 22) of 1843, dated 29 November.

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opinion, we desire that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations; but at the same time you will bear in mind, that at such meetings only is he entitled to a voice in your proceedings."

For secret letter, dated 18 February 1844.

On receipt of the above orders, the Governor-General (Lord Ellenborough), then at Benares, recorded the following minute, and communicated it to the Court:—

Minute by the Governor-General, dated 18 February 1844.
Legislative Cons., 16 March 1844 (No. 1).

"The Court of Directors, in their letter dated the 29th of November 1843, have intimated their desire that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations, but have at the same time cautioned us to bear in mind that at such meetings only is he entitled to a voice in our proceedings.

"It is impossible to regard this otherwise than as a mere expression of the opinion and wish of the Court. If the words used could be regarded as conveying a 'direction,' by virtue of such direction the fourth member of Council would become entitled to sit at meetings not held for the purpose of passing laws and regulations; but the last Charter Act expressly provides that the fourth member of Council shall not be entitled to sit or vote in the Council, except at meetings thereof for making laws and regulations; therefore any such 'direction' given by the Court would be altogether invalid, because inconsistent with the Act of Parliament, from which alone the Court derive their authority.

3 & 4 Will. 4, c. 85, s. 40.

"The Council of India, as established by the Act of Parliament, is as much a part of the constitution of India as the Court of Directors, and it is the duty of the Council to guard with jealousy its rights, to resist all infringement of its powers; and above all, to treat as utterly null every direction which, if obeyed, would change its composition.

"Considering, however, that the Court can only have intended to convey an intimation of their opinion and of their wish, and not to send a direction, which they are not by law competent to give, we may properly show our respect for the opinion of the Court by carrying into effect their wish that the fourth member of Council should sit at meetings of the Council not held for the purpose of making laws and regulations, in as far as it may appear that his presence may not be injurious to the public service; but it must at all times be borne in mind, that above all things secrecy in Council and promptitude of action are essential to the successful conduct of public affairs in India; and it must also be understood, that any individual member of the Council may, at any time if he shall see fit, require that any person shall withdraw from the Council who is not entitled to sit therein by the Act of Parliament."

The Honourable W. W. Bird (President of the Council), proposed to summon the fourth member of Council to attend at all meetings in the Home Department, and to carry out the orders of the Court, in the following terms:—

Minute by Mr. W. W. Bird, dated 24 February 1844.
Legislative Cons., 16 March 1844 (No. 2).

"I have seen the minute of the Governor-General, dated the 18th instant, on the letter from the Honourable the Court of Directors, intimating their desire that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations, and reminding us at the same time that at such meetings only is he entitled to a voice in our proceedings.

"This intimation from the Honourable Court has confessedly been made in consequence of the opinions expressed here, and by no one more strongly than myself, regarding the unfitness for exercising legislative powers of those who see nothing of the internal administration of the country. This unfitness, after long observation, has struck me so forcibly that I have not hesitated to ascribe to it the differences of opinion which have almost uniformly been found to exist between the Government and the Law Commissioners on almost every legislative project which has come under discussion; and I continue to think it absolutely necessary for the full efficiency of the fourth member of Council that he should attend, not merely the legislative meetings, but all meetings at which the civil administration of India may be brought under consideration.

"With these views, and in deference to the wishes of the Honourable the Court of Directors, communicated in reply to our own representations, I would suggest that the fourth member of Council be summoned to attend all meetings in the Home Department, and that the papers connected with that department be regularly circulated for his perusal in common with the other members.

"In regard to his being required to withdraw at any time, I do not think that any individual member should have the power of enforcing such a requisition without the concurrence of the other members; but he may propose his withdrawal, and the question must be determined, as in all other cases, by the voice of the Council at large."

The Honourable Sir Herbert Maddock, Knight, recorded his views on the subject, as follows:—

Minute by Sir Herbert Maddock, Kt., dated 26 February 1844.
Legislative Cons., 16 March 1844 (No. 3).

"If not absolutely necessary, it is, I think, highly desirable that the fourth ordinary member should be generally present in Council at all our deliberations on subjects connected with the internal administration of the country, and we shall, I conceive, sufficiently meet the expressed wishes of the Honourable Court by summoning Mr. Cameron to attend and be present at the Council Board during the proceedings of Government, in the Home as well as in the Legislative Department. It appears quite unnecessary to require the attendance of the fourth ordinary member at those meetings of the Council which are devoted to the consideration

sideration of military and political questions, and it may be considered objectionable in principle that any irresponsible party should be allowed to be present at times when the Government may be deliberating on questions of foreign policy, of war or of peace, or on any matter requiring secrecy.

"If the attendance of the fourth ordinary member is limited as here proposed, I can hardly contemplate the possible occurrence of the necessity for so unpleasant a measure as that of desiring him to withdraw.

"The only objection that can be made to Mr. Bird's recommendation, that all papers in the Home Department should be sent to the fourth ordinary member for his perusal before they are considered at the Council table, is the additional delay which will attend the circulation of the papers, and that may be avoided by arrangements to ensure promptitude in the circulation of such papers as require despatch."

The Governor-General (Lord Ellenborough) having returned to the Presidency, recorded the following second minute on the question:—

Minute by the Governor-General, dated 28 February 1844.

Legislative Cons., 16 March 1844 (No. 4).

"Inasmuch as the fourth member of Council is not entitled by the Act of Parliament to sit in Council, except at meetings thereof for the making of laws, it must of necessity be in the power of any member of the Council to desire that the fourth member should withdraw from any Council not held for that object, that is, to require the due observance of the Act of Parliament.

"It may very possibly never be deemed necessary by any member of the Council to exercise this his undoubted privilege; but in a minute, referring to the law, it was necessary clearly to state what the law is, and to guard jealously all the privileges of those who are alone entitled on all occasions to sit and vote in the Council of India."

There was a meeting of Council on the date of the foregoing minute (28th February 1844), and there is a paper in the office, written by Mr. Cameron, on that date, which may perhaps have been read in Council, but which was never recorded. The paper is headed "Protest," and its contents are as follows:—

"It is impossible for me not to know that the presence of the fourth member of Council at Councils not legislative is against the wishes of the head of the Government, and, knowing that, I came here with the greatest reluctance.

"I came, because I do not feel that I should be justified in refusing to do my part towards a compliance with the instructions received from England by the December mail. But in order that there may be no misunderstanding, I wish to put upon record my protest that I do not come here upon the footing in which a stranger comes into the gallery of one of the Houses of Parliament; and, consequently, if I should be required upon any occasion to retire by any individual member of the Council, it is my intention to refuse compliance with such requisition. It is my intention not to retire until the Council breaks up, unless required so to do by a vote of the majority of the Council, or by the Governor-General, acting under the 49th section of the Charter, and of course with all the forms prescribed by that section.

"I give no opinion on the question whether such a requisition by the majority of the Council, or by the Governor, acting under the 49th section of the Charter Act, would or would not be a violation of the instructions received from home; because, even assuming that it would be such a violation, I think it would not be for me to take the objection, but rather to leave it to the Court of Directors and the Board of Control to vindicate their own authority.

"A requisition made by one or more individual members of Council I should look upon as a nullity. A requisition made by a vote of the Council, or by the Governor-General, under the 49th section of the Charter Act, I should consider binding upon me, though perhaps invalid as against our superiors at home.

(signed) "*C. H. Cameron.*"

"28 February 1844."

At the next meeting of the Council, the following Letter was addressed to Mr. Cameron:

Letter from the Governor-General and members of Council to the Honourable Mr. Cameron, dated 4 March 1844.

Legislative Cons., 16 March 1844 (No. 5).

"We are of opinion that a more extensive knowledge than you are at present enabled to obtain of the revenue and judicial administration of the country would tend to facilitate the performance of your duties as a Legislative Councillor, and we propose, should you concur with us in this opinion, to communicate to you such more important papers connected with those two branches of the Civil Government as may seem to be calculated to afford you valuable information with respect to its details.

"We likewise propose to request your attendance in the Council when important matters connected with the revenue and judicial administration may be under consideration. You must be aware that the matters which come before the Council, even in the Civil Departments, generally press for early, if not immediate decision, and that any arrangement intended to facilitate your acquisition of a knowledge of the details of the administration must be so guarded as not to diminish that promptitude of action which is essential to the conduct of affairs in India."

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To which Mr. Cameron made the following reply:—

Letter from the Honourable Mr. Cameron, dated 7 March 1844.

Legislative Cons., 10 March 1844 (No. 6).

"I have the honour to acknowledge the receipt of your letter of the 4th instant. In that letter you inform me that you are of opinion that a more extensive knowledge than I am at present enabled to obtain of the revenue and judicial administration of the country would tend to facilitate the performance of my duties as a Legislative Councillor, and that you propose, should I concur with you in this opinion, to communicate to me such more important papers connected with those two branches of the Civil Government as may seem to be calculated to afford me valuable information with respect to its details.

"In answer, I beg to state that I do entirely concur in the opinion you have expressed, and that I shall be happy to have such papers as you have described communicated to me.

"You further inform me, that you propose to request my attendance in the Council when important matters connected with the revenue and judicial administration may be under consideration.

"I shall most readily attend, as fourth member of Council, at any meetings of the Council at which you may think my attendance can be advantageous to the public service.

"With respect to the arrangements intended to facilitate my acquisition of a knowledge of the details of the administration, I have no doubt you will take care that they shall be as effectual for that purpose as is consistent with the due performance of your own executive functions."

Legislative letter (No. 6) of 1844, dated 16 March.

Copies of the minutes and of the foregoing correspondence were forwarded to the Court of Directors, who replied to the despatch as follows:—

Legislative letter (No. 12) of 1844, dated 5 June.

"We forbear from commenting upon the terms in which you have, in your several minutes, adverted to the instructions addressed to you in our letter of the 29th November last, regarding the fourth member of Council; but it is necessary that we should set you right with respect to some degree of misapprehension entertained by you on the subject.

"In the letter in question, we desired, in conformity with the practice which until recently had always been observed, 'that the presence of the fourth member of Council may not be restricted to meetings held for the purpose of passing laws and regulations;' but at the same time we drew your attention to the provision of the Charter Act, 'that he shall not be entitled to sit or vote in the said Council,' except at such meetings. We thereby showed you clearly, that we did not consider our instructions to be inconsistent with that provision.

"The fourth member, not being 'entitled to sit or vote in the said Council,' does not form a component part of that body, and has no voice in its proceedings, except for the purpose of making laws and regulations. But the expression, 'to sit' in Council, is not used in a literal sense, as if the Council where the place were the members met, instead of the constituent body itself. It seems sufficiently obvious that it was not intended to be illegal for the fourth member to be present at all meetings of Council, from this consideration alone, that he would in that case be the only individual subject to such a disqualification.

"With respect to the attendance of the fourth member at the Council, while it may be engaged in questions purely of a political or military nature, we concur with the opinions conveyed in the minutes which you have forwarded to us from the other members, as to the propriety of his absence upon such occasions."

Under the above arrangement, Mr. Cameron continued to see, in addition to the correspondence in the legislative branch, only such papers connected with the revenue and judicial administration as were of any importance; but since the assumption of the office of fourth member of Council by the Honourable Mr. Bethune, the whole of the papers of the Home Department are submitted for his perusal. There is nothing on record respecting this change of practice.

Home Office, November 1849.

MINUTE by Sir *F. Currie*, Bart., dated 29 November 1849.

THIS very interesting paper has been prepared, I believe, in consequence of a remark made by myself at the last meeting of Council.

I am desirous that no misapprehension should arise as to the nature or purport of that remark.

Some papers were submitted by the Government of Madras, in reply to a call from this Government (made on looking at their abstract of proceedings), regarding certain measures pursued by the Madras Government for maintaining the peace of one of their cities, a breach of which was threatened by a dispute regarding caste privileges.

I suggested that the Madras Government should be supported, and that we should not interfere in the matter.

The Honourable Messrs. Lowis and Bethune wrote minutes, entering at length into the question discussed in the Madras papers, and the principles involved in their orders, and strongly condemning the measures adopted by the Madras Government, which I had proposed to uphold, so far as non-interference went.

These minutes were read in Council; and Mr. Lowis requested that his might be recorded; and on his applying to Mr. Bethune if he desired to record his, I suggested a doubt if Mr. Bethune's

Bethune's could be recorded, as an official document, with reference to the nature of the subject discussed therein.

The subject is one of pure executive police, involving no legal, judicial, or revenue question, and I was doubtful whether, in reference to the Charter Act and the practice of the Council, as far as I was aware of it, I was bound to or could consider the minute of the fourth ordinary member an official paper, to which, if it should remain on record, I might desire to add a rejoinder.

In consequence of my remark, Mr. Halliday was requested to see how the question stood as to the position of the fourth ordinary member in meetings of the Council, other than for legislative purposes. This paper is the result; I think it proves that the minute in question should not be considered an official one, susceptible of being recorded.

I did not desire, and do not desire, to raise the question discussed in the paper submitted by Mr. Halliday any further. I consider that we derive much benefit at all times from Mr. Bethune's remarks or suggestions, as *amicus curiæ* in questions of a general character; and I think that the fourth ordinary member should be present at all our sittings relating to domestic administration.

(signed) *F. Currie.*

MINUTE by the Honourable *J. Lowis*, dated 12 November 1849.

THE original subject matter of this discussion is apparently of a trivial character, viz. whether certain parties shall ride in palanquins on particular occasions; but the principle involved is of very wide application.

The petition having, however, referred to the Honourable Court, we were not, as members of the Council of India, called upon to vote or decide; but as I thought the Madras Government had followed a wrong and pernicious course, I conceived it to be my duty to put upon record, for the information of the Honourable Court, the expression of my opinion, and my reasons for it.

The case belongs to a class upon which it is our practice to seek the advice of the fourth member of Council.

In this particular case he advised as usual, without objection being taken, and the question was then raised whether under the circumstances he might record, as I had done, for the information of the Honourable Court, the advice with which he had favoured us. Having been invited to do the one, it certainly appears to me that he is entitled to do the other; nor do I find anything, either in the Charter Act itself, or the voluminous correspondence relating to the official position in the Council of the fourth or legislative member, which militates against this view of the question.

He is not entitled, as of right, to sit at all meetings of the Council, but benefit to the general business of the country has been found to result from his so sitting, and he is summoned accordingly. All the papers in the Home Department are circulated for his perusal, as they are to the other members of the Council, and at the Council Board his opinion on these papers is delivered in due course. I can discover no reason why, at a subsequent stage, it should be suppressed.

(signed) *J. Lowis.*

MINUTE by the Honourable *J. E. D. Bethune*, dated 12 April 1850.

Fourth ordinary member of Council.

THE abstract prepared in the Secretary's office of the previous discussions which have been held in respect of the position and functions of the fourth ordinary member of Council is very interesting, but goes beyond the question which was lately raised. There is no proposal now before the Council for recommending the abolition of the office of the fourth member, nor whether he should be present on other occasions than Councils held for making laws, nor whether papers connected with the executive administration of the country should be sent to him. The only question now under discussion is, whether any minutes which he may write on the perusal of such papers should be recorded. I am happy to think that, owing to the harmony and cordiality which have marked the deliberations of the Council since I have had the honour of belonging to it, this question can be now discussed without any danger of that acrimonious spirit which appears plainly enough in the latter part of the minutes previously recorded on this subject, and which was almost inseparable from the knowledge which the fourth ordinary member then had that the head of the Government considered him, and all but called him, an useless and mischievous burden on the country. The main questions, then, in debate may now be considered as decided. I do not think my personal interest in the matter influences me in my judgment that they have been rightly decided.

The presence of the fourth ordinary member at all Councils, and the communication to him of all administrative papers is essential to him, who comes to this country (at least I did so) with no other knowledge of the details of Government in India than is to be scantily gleaned in England by men familiar with the conduct of public business at home, but having no special opportunities of gaining information on Indian affairs. I think, too, that it must be useful to the other members of Council. Their qualifications for their office have been matured by experience gained during long continued residence in this country, which, although not inconsistent with an accurate and lively perception of the course and progress of

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of opinion in England, must in some degree be detrimental to it. They must almost necessarily acquire the habit of looking on public questions from one particular point of view, and cannot without some effort discover that this may not be the only one. It is sometimes assumed that the only object of appointing the legislative member of Council, as he is often called, was to secure the services of an English lawyer; but in the Act there is no security for his possessing any legal knowledge, or indeed any qualification, or rather disqualification, other than the remarkable one that he shall be "appointed from among persons who are not servants of the said Company."

Adverting to this restriction, I am of opinion that the special end of his appointment was clearly in order that one person might be added to the Governor-General's Council thoroughly free from the influence of habits of thought acquired by a life spent in India, and that Indian statesmen might hear, during their deliberations, how the questions under their consideration were likely to be viewed by those conversant with the administration of public affairs in England. In local knowledge, whatever facilities may be afforded to him for gaining it, he must always remain inferior to them; but, even in this branch of knowledge they may be led sometimes to review the grounds of their own judgment, on finding that to him they appear strange or peculiar. I therefore consider the present practice as fraught with benefit to all in Council; and with reference to the last consideration I have urged, I think that it would have been better if the course followed while Mr. Macaulay was here had been uniformly adhered to, and if papers in the Foreign as well as the Home Department were circulated to the fourth ordinary member. Lord William Bentinck undoubtedly had good grounds for urging that "in every Council, particularly in the Political Department, questions have come before us appertaining to international law, reciprocal jurisdiction, claims for fugitives," &c.; and, unless there is a difference of opinion among the other members of Council, in consequence of which the papers are received, I learn nothing of these questions even by my attendance at Councils in the Foreign Department.

The Council will understand that I am forced to take for granted in this discussion, that the fourth ordinary member has discretion and knowledge enough to give a reasonable probability that his opinion on such subjects may be worth hearing. If he has not, or is supposed not to have such qualifications, the fitting remedy is, that the proper authorities should request him to leave the Council-chamber in a wider sense than that in which the phrase was employed by Lord Ellenborough.

Assuming, then, that any papers which are sent to the fourth ordinary member are so sent, partly to enable him to understand the government of the country, and partly that the knowledge of his opinion upon them may be of use to his colleagues, I think it undeniable that it is best to have that opinion on important matters in writing.

Indeed, on many intricate points I could not pretend to have an opinion unless formed in the quiet of my own room, with the advantage of consulting my library, and recording at leisure the knowledge I so gather. These written opinions may or may not influence the decision of the Council. At worst, they are harmless; for, as I have no vote, they can prevail only so far as the cogency of their argument gives them weight. The case of the Madras pier is in point.

The Governor-General and other members of Council had agreed to recommend to the Court a proposal to guarantee to the projectors a dividend of five per cent. It is on record that, upon considering a minute of mine, this proposal was afterwards rejected. How would the matter have stood if my opinion had been given orally with the same consequence, and my minute had not been written or recorded? Either the other members of Council must have cancelled all they had previously recorded, or they must have sent home an unmotived decision, apparently in opposition to their own arguments, or they must have recorded their change of opinion on arguments of which the Court would have no cognizance. And what applies to the Court, applies also to the Governor-General while absent from the Council. Indeed, this discussion was revived upon a question whether a commentary of mine on Mr. Grant's summary of Mr. Blunt's case ought to have been sent to the Governor-General with the other papers.

The Court have very properly directed, by their despatch of 8 July 1835, that the signature of the fourth member of Council should not be appended to despatches for which he is not officially responsible; but that is a very different thing from desiring not to see the opinions he may have given, and on which possibly, as in the case of the Madras pier, the conclusions of the despatch may have turned. So many of my minutes have gone home, which, on any other interpretation of its meaning, would have been in contravention of their despatch, that I think the Court would hardly have failed to desire that the practice be discontinued, if it were disapproved by them. I give a list of some which I have taken at random, none of which has any bearing on any legislative question, during the last year.

Sir Henry Seton's Salary - - -	February 1849.
Treaties of Extradition.	
The Paul Jones - - - -	March.
Burying Grounds - - - -	March to November.
Episcopal Jurisdiction - - - -	May.
The Khond Idol.	
Instruction in Civil Engineering, Madras	June.
Grant, Medical College - - -	May, July.
Rules for the Delhi Family.	
Mr. Blunt's Case - - - -	September, December.
Synds of Tatto.	

St.

St. Paul's School.
Students of Fort William - - - November.
Bombay Police and Currency - - November.
Palanquin Processions (Tinnevelly) - November 1849.

This last gave the occasion for mooting the question under discussion, which arose also on Mr. Blunt's case. Both have been before the Court long enough for them to have desired that no more such should be sent, had they deemed them improperly or superfluously forwarded.

(signed) *J. E. D. Bethune.*

12 April 1850.

(No. 66.)

From the Secretary to the Government of India with the Governor-General, to the Secretary to the Government of India, Home Department, Fort William, dated 4 June 1850.

Sir,

I am directed to transmit herewith, for the information of the Honourable the President in Council, copy of a minute by the Most Noble the Governor-General, dated the 29th ultimo, containing his Lordship's opinion on the question mooted by the members of Council, regarding the part which the fourth ordinary member thereof is entitled to take in the proceedings of the Council, and to request the attention of his Honour to the last paragraph thereof. Home Department.

2. The minutes recorded by the members of Council which were sent up in original are herewith returned.

I have, &c.
(signed) *H. M. Elliot,*
Secretary to the Government of India
with the Governor-General.

Simla, 4 June 1850.

(Copy.)

Minute by the Most Noble the Governor-General of India, dated Simla, 29 May 1850.

I have given my best attention to the minute recorded by the several members of Council, regarding the limits of the share which the fourth ordinary member thereof is in practice entitled to take in the proceedings of the Council. Fourth member of Council.

2. The question now raised differs from those which have been discussed by the Government of India, on the several occasions mentioned in the memorandum submitted by the secretary. There is now no question as to whether the office of fourth member of Council, as established by the Charter Act, should be abolished or not. It has long since been decided, and in my humble judgment most wisely decided, by a great preponderance of opinion, that such an officer is not only valuable, but necessary to the Government of India; and the only alteration which I should desire to make in the office as it stands, is the removal of the restrictions which the Act has placed on the duties and powers of the person who fills it. Neither is there any longer a question as to whether the fourth ordinary member of Council should in practice be admitted only to meetings of the Council for purposes of legislation. It has been decided by the Honourable Court of Directors that the fourth member of Council shall be present at all meetings of the Supreme Council in the Home Department, and the fourth member has accordingly attended such meetings, and has had communicated to him all the papers in that department for some time past.

3. The question which is now raised is, whether the fourth member of Council, confessedly authorised to attend the meetings of the Council in the Home Department, and to see the papers belonging to it, is entitled to embody his opinion on any paper which may thus come before him, in a minute, and to place that document on record.

4. The Honourable Sir Frederick Currie holds that he is not so entitled; the Honourable Mr. Lowis, on the contrary, considers that he is entitled to record his opinion. The Honourable President does not appear from the papers before me to have stated his views on the point mooted.

5. I have to submit it as my opinion, formed after a perusal of the abstract of all that has previously passed on this subject—

1st. That the fourth member of Council is not entitled by the Act to sit or vote, except in meetings of the Legislative Council.

2d. That although not entitled to sit and vote, he is not by the Act absolutely excluded from admittance.

3d. That in accordance with that view, the fourth member has, at the suggestion of the Government of India, and with the approval of the Court, been allowed to be present at all meetings of the Council in the Home Department, and to see all the papers of that office. I think that he ought to continue thus to attend, and to see the papers.

4th. That as I conceive it to be clearly shown in the minutes and despatches of the members of the Government and of the Court, since the date of the last Charter Act, that their intention in admitting the fourth member to meetings of Council was, that he should

Legislative letter (No. 3) of 1835: 31 August.

should give his "attendance and assistance" there, I conclude that it could not have been wished that he should merely be present, that he should sit a silent witness of the proceedings of the Council, should take no part in them, and utter no opinion on the matters brought before him. I apprehend that being admitted to the meetings of the Council, it was intended that he should stand in the same position as any other member of it, excepting only in the giving of a vote.

6. If I am right in this conclusion, that it was not intended to forbid his giving an opinion on matters before the Council, it follows, as a necessary consequence, that he is entitled to minute on any one of the papers circulated to him; for the minuting on a circulated paper is only the substitute for an opinion orally delivered; every paper being in theory supposed to be brought forward in the consultations, and the circulation of papers being adopted merely for convenience, and to shorten the sittings and the labour of the Council.

7. Further, if it be admitted that he was intended thus to give his opinion in the proceedings of Council in the Home Department, it must be admitted, I think, that he is entitled to reduce that opinion to writing, and to place it upon record with the minutes of other members.

8. In expressing these views, I mean it to be understood that the opinion of the fourth member is merely entitled to be placed on record, and that it is not to have the effect of a note, that power being, by universal assent, denied to the fourth ordinary member, except in meetings of the Legislative Council.

9. The whole question turns on whether the fourth member, being admitted to Council in the Home Department, was intended to be a mute there or not. It is manifest that such was not the intention of Lord William Bentinck when the point was first raised, and I cannot think that it was the intention of the Court of Directors when they gave their final opinion. And if they intended to confer on the fourth member the right of discussing, the right of minuting, but without voting, cannot, I think, be denied to him.

10. That right I have no doubt will always be exercised by the fourth member of Council as heretofore, with discretion and tact; it will be acted upon only in matters which appear to be of importance, and it will not be called into play on papers connected with the ordinary routine of executive administration in the Home Department.

11. Sir Frederick Currie observes, at his close of his minute, that he does not wish to pursue the question further. But I submit that, the question having been raised, it had better not be left suspended; and I would suggest that his Honour, the President, should be requested to record his opinion upon it, and that the papers should then be sent to the Honourable Court, in order that they may authoritatively confirm the observance of one form of procedure or the other in the consultations of the Home Department.

(signed) *Dalhousie.*

(True copy.)

(signed) *H. M. Elliot,*
Secretary to Government of India with the Governor-General.

MINUTE by the Honourable Major-General Sir *J. H. Littler*, G.C.B., dated 17 June 1850.

Fourth member of Council.

WITH reference to the particular case which has given rise to the present inquiry regarding the position of the fourth ordinary member of Council, I have little hesitation in expressing my opinion that, arguing upon the facts as they are stated by the Honourable Mr. Lowis in his minute, viz., "that the case belongs to a class upon which it is our practice to seek the advice of the fourth ordinary member of Council," and that he accordingly "advised, as usual, without objections being taken," it would be impossible to deny the right of the fourth member to put his advice into writing and place it on record.

The point which I understand to be now immediately at issue has reference to the Home Department only, and I apprehend the question to be simply this: whether the fourth ordinary member attending all the meetings of the Council in the Home Department, and having all the papers of that department which are disposed of in circulation sent to him, is also to be considered entitled to take a share in the deliberations of the Council on all questions belonging to that department of whatever description, legislative or executive.

I further understand that the particular object of the inquiry has been (and the minute of the Governor-General seems to be directed to that end) to ascertain what is the position in that respect of the fourth ordinary member, as laid down in the past instructions of the Court.

After a careful perusal of the Honourable Court's several despatches on the subject, I am of opinion that the instructions therein contained, in respect of the position of the fourth member of Council, do not admit of being construed to mean more than that it is expedient that he should be present at all meetings connected with the internal administration of the country (except in the Political and Military Departments,) but that, as regards the executive departments of that administration, he should take no part in the deliberation of the Council, shall expressly desire to avail themselves of his assistance.

As regards minuting, I cannot suppose that it was contemplated there should be any restrictions

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restrictions in that respect, whenever it might be deemed necessary to seek the advice of the legislative member in matters before the Council not of a legislative nature.

It can scarcely be necessary that I should express my entire acquiescence in the opinion recorded by the Most Noble the Governor-General regarding the great value to Government of the office of the legislative member of Council.

(signed) *H. Littler.*

MINUTE by the Honourable Sir *F. Currie*, Bart., dated 20 June 1850.

Position of fourth ordinary member of Council.

I HAVE read the minutes recorded by the Governor-General and two members of Council upon the question referred to in my minute of the 29th November of last year.

I have only to observe, that the Governor-General has not quite correctly understood my remark at the close of my minute. I did not say that I did "not wish to pursue the question further." I wrote that I did "not desire to raise the question discussed in the paper submitted by Mr. Halliday any further;" and I went on to say, that I quite concurred in the propriety of the fourth ordinary member being present at all sittings of the Council in the Home Department. I had and have no desire to raise again that question, or the discussions connected with it, which form the chief subject of the Secretary's memorandum. I quite agree with the Most Noble the Governor-General, that the question of the right of the fourth ordinary member of Council to record minutes on papers in no way connected with legislative subjects, and not specially referred to him for opinion, should be referred for the decision of the Court of Directors, who can best interpret their own instructions, conveyed in their legislative letters, No. 22, of 1843, dated 29 November, and No. 12, of 1844, dated 5 June, which both of them state distinctly, that though the Fourth ordinary member is to be present at all meetings of the Council for internal administration, he "has no voice in its proceedings except for the purpose of making laws and regulations." I understand this to mean that he has no right to place his opinion on record in its proceedings in such cases. I shall not be sorry to find that I am mistaken; but I think the question should not be left in doubt.

(signed) *F. Currie.*

MINUTE by the Honourable *J. E. D. Bethune*, dated 29 June 1850.

Duties of fourth ordinary member.

THERE is only one point on which, after perusal of the minutes of the Governor-General and Sir John Littler, and the additional minute by Sir Frederick Currie, I wish to add a few words to what I have already written. I hope it is clearly understood that I am included among those by whose universal assent, as stated by the Governor-General, it is agreed that no spoken or written opinion of the fourth ordinary member can have any effect as a vote, when difference of opinion arises in the Council. I think this is clearly expressed in my former minute; but as the words "right" and "entitled" occur in several places in these minutes, I wish to stand clear of all doubt in what sense only I understand those words to be correctly used.

The whole turns upon the expressed desire of the Honourable Court that the fourth ordinary member shall give his attendance and assistance while business other than legislative is discussed in the Home Department. Sir Frederick Currie seems to attach importance to the phrase of the despatch, that he "has no voice in its proceedings." It is, perhaps, idle to deal in verbal criticism when we are on the point of asking those who employed this phrase, in what sense it was used, but to me it is plain that voice is here used for vote.

It seems to me impossible to think that the Court on such an occasion, while directing the attendance and assistance of the fourth ordinary member, would, in this pointed manner, have warned him that he was to keep silence there. Sir Frederick Currie assumes that he is to give his opinion on such questions only as are specially referred to him. I have already expressed my opinion orally in Council, that this would have at least the appearance of placing him in a position of inferiority with respect to his legislative colleagues, which it would not be seemly that he should occupy. At any rate it would have to be borne in mind that, after taking the opinion of the other members of Council whether or not his opinion should be asked, it would be necessary also to consult his pleasure whether it would be given. That at least must be conceded to him, or he would sink at once to a mere officer of the others. There might also be difference of opinion among the other members of Council whether or not his opinion should be asked: what an opening for misunderstanding and real or supposed affronts, and be perhaps requested to withdraw, that the question might be more freely discussed in his absence! I would certainly not place myself voluntarily in such a position; and unless it were fully understood that I was to exercise my own judgment in giving my opinion at all meetings which I was requested to attend and assist, I should respectfully decline going through the new form of giving such assistance, or giving it in any way that should appear to me to derogate from that position of equality which ought to subsist among those assembled round the same Council table in all things except where the law has otherwise provided.

(signed) *J. E. D. Bethune.*

(True copies.)

East India House, 22 April 1853.

T. L. Peacock,
Examiner of India Correspondence.

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Appendix, No. 11.

PAPERS relating to the Removal of Mr. *Lewin* from the Office of Judge of the Sudder Dewanny Adawlut, also from his provisional Appointment to Council.

East India House,
13 May 1853.

JAMES C. MELVILL.

Note.—Several of the Papers included in this Return, together with Copies of the Proceedings referred to, were presented to the House of Commons on the 21st March 1849.

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LETTERS FROM INDIA.

JUDICIAL DEPARTMENT, 22 October (No. 24), 1846. Appendix, No. 11.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Para. 1. REFERRING to our letter of the 10th February last, No. 2, and to your Honourable Court's reply of the 3d June following, No. 12, which will be found disposed of in our Consultations of the 18th August 1846, No. 488, we have the honour to lay before your Honourable Court, copy of further papers on matters connected with the recent outrages between the Hindoos and native converts to Christianity in the Tinnevelly district. Outrages in Tinnevelly district.

2. The Honourable Mr. Chamier, in a minute dated 23d February 1846, laid before the Board a petition, purporting to be from certain inhabitants of that district, complaining of the injuries they suffered from the proceedings of the missionaries, and the official influence extended to them by the collector. He observed, that some inquiry was necessary to ascertain who the petitioners were, and what grounds they had for their alleged grievances, suggesting that the Civil and Session Judge might be charged with this duty, and adverted moreover to other petitions which were represented to have been addressed to Government on the same subject. Cons. 19 May 1846, Nos. 25 to 35. President's minute, 4 March.

3. From the minutes severally recorded by us, which will be found entered in our proceedings of the 19th May 1846, and to which we request your special attention, as conveying the sentiments fully of each member of the Government, your Honourable Court will observe, that after much discussion, we finally deemed it unnecessary to take further notice of the petitions in question, as they had been already disposed of by the usual order, and in the ordinary course. As, however, the Honourable Mr. Chamier suggested in his minute of the 18th April, as a part of the inquiry proposed by him, that the Foujdaree Adawlut should be ordered to lay before Government the results of the proceedings recently held in the Courts of the Tinnevelly district, in cases between Hindoos and Christians, we resolved to accede to this proposal, with the sole view of placing upon our records authentic information for your Honourable Court on the subject of these petitions. We therefore called for copies of the calendars, and of the evidence taken in the Sessions Court, with the sentences of that Court, in the several recent cases which had come before the Foujdaree Udalut from the province of Tinnevelly, in which native Christians were prosecutors, and heathens the accused.

4. In the same proceedings, and with the same view, we desired the Foujdaree Udalut to report in each case by what Judge or Judges of their Court the final sentence or order was passed, together with the sentence itself, and the grounds thereof, as well as the names of the head of police, and of the officers in the Magistrates' Department, who investigated the cases in the first instance, and forwarded them to the Court of the Principal Sudder Ameen.

5. We also, in the same order, called upon the Board of Revenue with reference to the statement in the Honourable Mr. Chamier's minute, to submit a statement of lands held in Tinnevelly by Protestant missionaries, or by Protestant Christians, on which a remission of rent, or any peculiar advantage had been conceded, and under what circumstances, and by whose recommendation and by whose orders a remission had been granted; also a statement of the number of revenue servants in all departments in Tinnevelly, with a memorandum showing how many of them were Protestant Christians, when first appointed, and by whom they were appointed to their offices. They were also desired to state whether the proportion of native Christians in revenue employ in Tinnevelly was greater or less than in other southern districts, and the relative proportion of the Christian to the heathen population of the district. President's minute, 4 May.

6. On the 25th June following, the first Judge of the Foujdaree Udalut, Mr. Waters, brought to our notice a copy of a memorial which the second and third Judges had prepared to your Honourable Court's address, impugning our orders of the 19th May, and submitted copy of a minute recorded by the second Judge, Mr. M. Lewin, in support of the memorial, together with one from himself objecting to the step taken by the other Judges. Jud. Cons. 28 July 1846, Nos. 1 to 6.

7. On the 30th June, the second and third Judges themselves forwarded the memorial in question, together with their minute.

8. These papers received consideration in our proceedings of the 24th July 1846. We there observed that the second and third Judges had addressed your Honourable Court, not only impugning our orders, but in fact setting themselves in opposition to them, without previously communicating with, or explaining their objections to us, and requesting a reconsideration of those orders; and that they had assumed, without ground, and notwithstanding a recent declaration to the contrary,* that it was the intention of Government to interfere with

* Extract Min. of Cons., dated 20 January 1846, No. 43, P. 2:
"His Lordship in Council wishes the Judges to understand that, in the case under reference, they are not called on to pass any new sentence, nor to alter their previous judgment, but to report on the facts and circumstances relating to it, for the information of Government."

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with the independence of the Court, and to control its judgments. There did not appear to us to be any justification for this course, and from the papers submitted by the first Judge, the memorial seemed to have been passed through the Court in an improper and hasty manner.

9. We regretted to observe that gentlemen holding the high office of Judges of the Court of Foujdaree Udalut, should have so far forgotten what was due to the Government and to their office, as to have memorialised your Honourable Court against our orders, without knowing, or even seeking information as to the views or object contemplated. We pointed out that it was their duty to obey those orders in the first instance, and if they had objections to offer, to submit them respectfully for our consideration; and this course we remarked was the more imperative on their part, inasmuch as one of the members of Government, whose orders were referred to, was himself the Chief Judge, and had lately been first Puisne Judge of the Court.

10. As the matter stood, we regarded the conduct of the second and third Judges to be highly improper, and justly to be condemned; and we resolved to require them to submit an explanation of the unprecedented course they had adopted. Meanwhile, we returned their memorial, and intimated that we could not permit our orders to be disregarded, nor would we allow subordinate officers to refer such orders to your Honourable Court. We observed, that if either of the Judges had grounds of objection personally to those orders, which he desired to bring under the consideration of your Honourable Court, the usual mode of proceeding should be followed, and the memorial forwarded individually to the Government in the first instance for consideration.

11. In again directing the Court of Foujdaree Udalut to furnish, without delay, the information called for by the orders of the 19th May, we apprised the second and third Judges, that they were in error in supposing the Government proposed or desired to exercise any control over their judgments, or to interfere with their independence; and observed, that we could not but feel surprised they should entertain an opinion to this effect, and venture to express it without previous and deliberate inquiry, particularly when it was distinctly intimated to them that the object of those orders was to place on the records of Government authentic information on the subject matter of certain petitions which had been presented to us.

12. Noticing in the minute of the first Judge that there were observations distinctly implying that official matters had been given to the public press through the instrumentality of the second Judge of the Court, we considered it necessary to call the attention of that gentleman to the statement, and to afford him, as well as the third Judge, the Register, and the assistants of the Court, who could alone have official cognizance of these papers, the opportunity, if they saw fit, of disavowing all connexion with their publication in the newspapers.

13. We also observed that an official paper belonging to the records of the Foujdaree Udalut, being a minute recorded by the first Judge on two trials at the time under his consideration, had been inserted at length in the editorial remarks of the "Spectator" newspaper of the 21st July, and being of opinion that the minute must have been furnished to the editor by some one connected with the Court, since no other person could have had access to its records, we called upon the Judges to ascertain and report whether the above official document was furnished by any person attached to their office, and if so, to name the individual by whom it was so furnished.

14. As the first Judge had also recorded sentiments unfavourable to the Register of the Court, we requested that officer might be called upon to place any justification of his conduct before the Government that he might desire to submit.

Rev. 28 July 1846, Nos. 49 to 51.
Jud. 28 July 1846, Nos. 43. 44.
„ 4 August 1846, Nos. 1. 2.
„ 18 August 1846, No. 45.
„ 25 August 1846, Nos. 5 6. 16. 17. 20 to 22.
„ 1 September 1846, Nos. 5 to 8. 21 to 23. 25. 26.
„ 8 September 1846, Nos. 1. 14, with Mr. Lewin's letter.
„ 15 September 1846, Nos. 1. 2.
„ 22 September 1846, Nos. 9 to 53.
„ 29 September 1846, Nos. 17. 18. 28 to 33. 40. 41.
„ 6 and 20 October 1846, Nos. 3 to 6.

15. On the 2d July 1846, the first Judge reported, that the second and third Judges had upon certain untenable grounds thrown into abeyance two sentences passed by himself upon important trials connected with the Tinnevelly disturbances, and after commenting upon the manner in which the evidence had been appreciated by his colleagues, called upon the Government to support him in the exercise of the powers vested in him by law, by ordering the execution of his sentences.

16. On the 8th of the same month, the second and third Judges protested against this proceeding of the first Judge, declaring it to be a violation of the laws, and in contravention of the powers vested in him, and upon the suggestion of our President, the Honourable Mr. Dickinson, proceeded, in his position of Chief Judge, to inform himself fully of the matters at issue, with the view of furnishing us with his opinion on the questions brought before us by the first and second, and third Judges, but his interposition, it will be observed from the papers submitted, was resisted by the second Judge.

17. The voluminous correspondence which has since taken place, with the minutes of our President, to which we request your special attention, will inform your Honourable Court of the

the full extent to which the dissensions in the Court of Foujdarree Udawlut have been carried. We had indeed at one time entertained the hope that these would have subsided when the first excitement and irritation had passed away, but we deeply regret to state, that we were disappointed in this expectation, and that the occurrences, as well as the minutes recorded by the Judges in the Court, with the communications from the second Judge, precluded us at length from indulging longer in the hope that the duties of the Court could be carried on by the present Judges with propriety, and in harmony.

18. Upon carefully reviewing all the papers which have come before us, we were unable to find any justification for Mr. Lewin's proceedings, or for the line of conduct he has thought fit to pursue. We observed also this has not been the first time this officer's conduct has been brought under the notice of Government, or of your Honourable Court, for proceedings not wholly of a dissimilar character.

19. In the present instance Mr. Lewin has acted not merely without due deliberation in setting himself up against the Government, impugning its proceedings, and charging it with an intention to interfere with the independence of the Judges, but he has done so in the face of an express declaration of Government to the contrary, and unlike the third Judge, who, although a joint memorialist with Mr. Lewin to your Honourable Court, at once offered a most ample apology for the error in which he had been led, Mr. Lewin has not even replied to the call upon him for explanation.

20. We further noticed the fact recorded by our President, that Mr. Lewin had originally addressed our President at Ootacamund, and although he received an assurance from his Lordship, as Governor, on the 25th June last, through the private Secretary, to the effect that he had entirely misapprehended the nature and object of the orders of which he complained, he yet persisted in placing the charge and imputation before Government in the memorial to your Honourable Court, dated the 30th of the same month.

21. Mr. Lewin also took upon himself, seemingly without reference to his colleagues, to nterfere and prevent the Chief Judge, the Honourable Mr. Dickinson, having access to papers in the Court which he, as Chief Judge, had called for at the instance of Government, and this conduct, notwithstanding that Mr. Lewin has disclaimed any intention to offer insult, we did not consider justifiable. The Honourable Mr. Dickinson's position as a member of the Government, and as the Chief Judge of the Court, entitled him to special consideration from Mr. Lewin, and that gentleman was bound to have assumed that he could have no illegal nor improper object in calling for papers or trials from the Court. The sole object in view was to obtain information which would enable Government to bring the Judges back to a sense of their duty, and it was clearly Mr. Lewin's duty to have inquired and sought information before he interposed and threw back upon the Chief Judge his call on the Register for papers

22. Mr. Lewin's statements respecting Mr. Dickinson's daily and hourly communications with Mr. Waters, and the imputations which Mr. Lewin has allowed himself to make, we considered to be as unjustifiable as they were declared by Mr. Dickinson to be unfounded. The same remarks apply to the imputations and insinuations with which Mr. Lewin has assailed the character and integrity of the Chief Secretary, and this after it had been expressly pointed out in the letter from the private Secretary to him, dated 25th June, that if he had any grounds for charge or imputation against gentlemen officially engaged near his Lordship's person, it should be openly and publicly preferred.

23. We considered Mr. Lewin's conduct also open to condemnation in his neglect to submit to Government, with the other Judges, the explanation required by our orders of the 24th July 1846, No. 433, for we could not allow him to stand in a position different from the other Judges or public servants, and he was bound to reply directly, and to submit an explanation equally with his colleagues. His neglect to do so, and the minutes he has recorded in reference to our orders, we viewed as highly censurable. We did not require the Judges to criminate themselves, but we desired to afford them the opportunity of disavowing all connexion with the publication of the substance of the orders of Government, and of official documents in the newspapers, as we considered it highly discreditable that such a suspicion should be allowed to exist. The first Judge, it will be observed, has made a full statement of his communication to the press; the third Judge has given a denial to it, and the subordinates of the Court have been equally explicit; but to the same call, the second Judge has not, in our opinion, made a direct reply.

24. In affording this opportunity to the Judges, we hoped they would have taken advantage of the occasion to remove from themselves the charge of being a party in traducing the character of a colleague, in articles published by the public press, in which were certain expressions wholly unbecoming any public officer. We were further of opinion, that the language addressed to Mr. Waters, by Mr. Lewin, in the Court-house, could neither be justified nor palliated; and we considered it as utterly indefensible and most disgraceful, and the whole proceeding such as must degrade the Court, and destroy its character in the eyes of the service, as well as of the entire community.

25. On the complaint of the first Judge, that he had been held up to ignominy and public contempt by the press, through the instrumentallity, as it was alleged, of the second Judge, we observed that no contradiction had been given to this statement, and, under such circumstances, we did not see how it was possible for public officers to conduct their duties.

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26. In his letter of the 1st September Mr. Lewin has asserted, that in the matter before the Government he has been made the object of party attack and missionary clamour, leaving it to be inferred that the Government have yielded to such influence. We could not permit Mr. Lewin, or any other servant of the Honourable Company, we observed, to use language of this character with impunity.

27. Another condemnatory feature in the proceedings and minutes of the first and second Judges of the Court of Foujdaree Udalut was the highly improper manner in which the question of heathen and Christian has been raised and brought on the records of the Court.

28. After giving full and deliberate consideration to all the papers connected with the proceedings of the Judges, and the conduct of Mr. Lewin, adverted to in the several instances noticed above, we have deemed it necessary for the public interests, although considering Mr. Lewin's high standing and peculiar position in the service, we did so with much reluctance, to determine on the removal of that gentleman from the office of second Judge of the Court of Sudr and Foujdaree Udalut until the pleasure of your Honourable Court shall be known, and we now await your orders on the subject.

29. In regard to Mr. Waters, we were not aware that there was anything objectionable in his original application to the Government to support him in the exercise of the powers, which he conceived to be vested in him by law, as a single Judge of the Court, and we apprehend that every Judge would deem it his duty to maintain unimpaired the authority which the law conferred upon him.

30. But although we thought that Mr. Waters was justified in his appeal against what appeared to him a violation of the law on the part of his colleagues, we nevertheless highly disapproved of his proceeding in withholding from them for so many days all knowledge of the course he had pursued, and of the comments he had made on the memorial prepared by them for transmission to Government.

31. Mr. Waters has assigned as his reason for this course the misuse which would have been made of his communication; and has further stated, that in communicating with the Government he expressly exempted the motives of the Judges from all question, and that he submitted the whole of their minutes; but these grounds were not sufficient, in our opinion, to justify his conduct.

32. Neither did we consider that Mr. Waters, who had expressed himself so strongly against the publication of official matters in the newspapers, was justified, although in self-defence, in sending to the press the letter signed "Sentinel." This proceeding we deemed unworthy of his high position as first Judge of the Sudr and Foujdaree Udalut.

33. We strongly condemn the conduct of Mr. Waters in the personal altercations with the second Judge in the Court-house, in which a want of the respect due to his high office as a Judge of the Sudr Court was evident, whatever might have been the provocation he had previously received.

34. Having already expressed our sentiments on the highly improper reference made in the proceedings of the Judges to the question of Christian and heathen, so foreign to their duties and office, we could not too strongly repeat this condemnation; and we observed that Mr. Waters' minutes, in the Court of Foujdaree Udalut, and his communications to Government, were peculiarly open to censure on this head, and called for the marked displeasure of Government.

35. In our opinion there was nothing which could justify the many improprieties, and the highly unbecoming personalities, into which Mr. Waters had fallen. They tended to prove that he was not qualified for the office he filled, and looking to all the circumstances adverted to, and to the importance of maintaining the character of the Court of Sudr and Foujdaree Udalut, we felt it to be our duty, as necessary to uphold the public interests, to remove Mr. Waters from that Court, and to appoint him to the first Zillah Judgship which might become vacant, pending the orders of your Honourable Court.

36. Referring to the third Judge, we observed from the proceedings before us, that Mr. Boileau was wanting in discretion and judgment, and in that independence of mind and character essential for the efficient performance of the important duties devolving on the Court; and we resolved in consequence to take an early opportunity to replace that gentleman in his former position of Civil and Session Judge, with the salary he drew before his promotion to a seat in the Sudr Court.

37. In pursuance of the above resolutions your Honourable Court will observe, that we have appointed Mr. Waters and Mr. Boileau to officiate as Civil and Session Judges of Coimbatore and Chinglepat respectively, and have supplied their places in the Court of Sudr and Foujdary Udalut by Mr. G. S. Hooper and Mr. E. P. Thompson. Mr. W. A. Morehead was appointed to officiate as a Judge of the Court on the 17th ultimo.

38. Since disposing of Mr. Lewin's case, we have received several communications from that gentleman, which will be found in the correspondence now transmitted, and to which, as well as to the minutes recorded thereon by our President, we request the especial attention of your Honourable Court. We beg to state at the same time, that a few of Mr. Lewin's

Lewin's subsequent letters are now under the consideration of Government, and as soon as disposed of, will form the subject of a separate letter. Appendix, No. 11.

39. On the 22d June last the acting magistrate of Tinnevelly applied to be allowed to employ temporarily an extra establishment of 12 peons and a duffadar in the Brumwadavem and Teneansy Talooks, as a precaution required by the state of feeling in the district consequent on the result of the trials of the persons charged with robbery and other outrages in the Christian villages. The application involved an additional monthly expenditure of 49 rupees, which we sanctioned, subject to the confirmation of the Government of India. We direct the attention of your Honourable Court to the statements of the acting Collector in this communication, as bearing upon the subject of this despatch. Rev. Cons. 28 July 1846, Nos. 49. 50. and 51.

40. The Foujdaree Udalut also applied for a small temporary establishment of six writers, to prepare transcripts of the records of the trials called for by us, which we complied with, and have directed their preparation without delay.

41. Your Honourable Court will observe from our proceedings of the 18th August 1846, No. 488, that we furnished an extract of your Honourable Court's despatch, No. 12, dated 3d June 1846, to the Foujdaree Udalut, and desired that they would, in conformity with the opinion therein communicated, instruct the several magistrates to observe it as a rule for the future that all outrages of a serious character and extent, from whatever cause originating, which might occur within their respective charges, should be promptly reported by them, for the information and orders of Government. Jud. Cons. 18 Aug., No. 45; 1846.

We have, &c.
(signed) *Hy. Chamier.*
Fort St. George, 22 October, 1846. *H. Dickinson.*

I have signed this despatch *pro formâ*, but I am not otherwise a party to it.
(signed) *Hy. Chamier.*

JUDICIAL DEPARTMENT, 12 December (No. 20), 1846.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WE have the honour to submit, for the decision of your Honourable Court, the accompanying papers, which we have received from the Government of Fort St. George, referring to the Government of India, whether it be competent to the Local Government to suspend from the Honourable Company's service a member of it, provisionally appointed to a seat in Council; and whether it be competent, under the circumstances of the case stated in the papers submitted, to a member of the Government to decline interference, or taking part in the proceedings of the Government. Home Department.

2. We discussed these questions in our minutes, as per margin, copies of which accompany this despatch, and we informed the Government of Fort St. George that, in respect to the first question, there appeared to be doubts on the legal part of the proposed proceeding, while, in respect to the second part of the reference, some of the proceedings of that Government, we observed, had already been submitted to your Honourable Court, and the remainder would, no doubt, be forwarded without delay; we therefore deemed it expedient to refrain from pronouncing any opinion on either question, and to leave them both for the determination of your Honourable Court. Min. by the Hon. Sir H. Maddock, dated 6 Dec. 1846. Min. by the Hon. F. Millett, dated 10 December 1846. Min. by the Hon. Sir G. Pollock, dated 10 Dec. 1846. Min. by the Hon. Sir H. Maddock, dated 11 Dec. 1846.

We have, &c.
(signed) *T. H. Maddock.*
F. Millett.
Fort William, 12 December 1846. *George Pollock.*

Vide, for the references from the Government of Fort St. George, Enclosures Nos. 8 to 23 of No. III., and Nos. 146 to 151 of No I.

JUDICIAL DEPARTMENT, 13 November (No. 25), 1846.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Para. 1. IN continuation of our letter in this department, dated 22d October 1846, No. 24, reporting our proceedings relative to the late dissensions in the Court of Sudr and Foujdaree Udalut, we have the honour to submit copy of a communication from Mr. M. Lewin, giving cover to copy of a memorial addressed by him direct to your Honourable Court, on the subject of his removal from office. Dated 12 October 1846, No. 911.

2. With this communication we also transmit a further letter from the same gentleman, together with minutes recorded by our President and the Honourable Mr. Dickinson, as well as a memorandum by the Chief Secretary, and requesting your Honourable Court's particular attention to these papers, we beg to point out briefly the errors in Mr. Lewin's statement. Cons. 13 November 1846, No. 721.

Appendix, No. 11.

3. In the first place, we beg to observe that Mr. Lewin's assertion of the Government having acted upon secret communications, has no foundation whatever; no private communications of any kind have been received, excepting the several letters sent to the private secretary to his Lordship by Mr. Lewin himself, and the letter through the Chief Secretary from Mr. Waters, referred to by Mr. Lewin. In both instances, the same course was pursued, and Mr. Lewin and Mr. Waters were informed that no communications would be permitted, except through the regular official and public channel of the Secretary to the Government, in the Judicial Department, and accordingly not a single paper has been submitted to his Lordship which did not come through this channel, though Mr. Lewin has subsequently sent several, Mr. Waters none. Further remark on this subject is, however, unnecessary, as we are assured your Honourable Court will observe from the minutes already submitted that his Lordship's opinions have been formed solely on the information laid before him officially.

4. The Chief Secretary's memorandum in respect of the statements contained in para. 12, and other portions of Mr Lewin's memorial, in which it is imputed to him that he has been holding secret correspondence, and acting in concert with Mr. Waters, the first Judge, will inform your Honourable Court that those statements are without foundation.

5. We beg also to point out, that the papers sent to Government by the first Judge embraced Mr. Lewin's and Mr. Boileau's as well as his own minutes, and were laid before the Government officially.

6. In reference to Mr. Lewin's statement, that the Government were bound to support the majority of the Court on their view of the law, we beg to observe, that the Government could not interfere and interpret the law summarily, as he is well aware, and that the law quoted by him, Regulation IV. of 1806, was the rule of Court when a single judge had no special and separate authority or power vested in him by law, and was inapplicable to the case laid before Government; and it was on this point that the Chief Judge was requested to assist the Government with his opinion, when, as your Honourable Court have been informed, he was prevented from doing so by the second Judge.

7. The reiterated statement of Mr. Lewin, of the influence of missionaries on the proceedings of Government, needs no notice beyond that it rests on nothing but his own unsupported assertion, and is utterly and entirely unfounded.

8. We beg to request the attention of your Honourable Court to the circumstance that the observations of Government respecting the publication of matters in the newspapers did not refer merely to the writing for them, but to the abuse of trust and of official duty, in secretly sending to the editors of newspapers official documents and records of the Court, with the view, as it was obvious, of depreciating the character of a colleague, and of which Mr. Waters complained.

9. Mr. Lewin has also lost sight of the fact, that in estimating his language and conduct in the personal altercation in the Court-house, the Government had before them the language in which he had indulged in his minutes in the Court, and in his communications with Government in reference to Mr. Waters, and in which he has continued to indulge, with greater impropriety, in the case of Mr. Dickinson.

10. Your Honourable Court will observe, from the minutes of his Lordship already submitted, the grounds on which Mr. Boileau and Mr. Phillips were called upon for a second report on the matter of the altercation between Mr. Lewin and Mr. Waters; and will also notice, that in the original orders of Government upon Mr. Waters' communication, it was expressly directed that Mr. Lewin should then be furnished with a copy of Mr. Boileau's and Mr. Phillips' statements. It was therefore his duty to have offered at that time his objections to the statements submitted, if he considered them in any degree incorrect, or the inquiry imperfect.

11. Your Honourable Court will be fully aware, from the proceedings of Government, of the circumstances which have led to the removal of Mr. Lewin at an earlier date than Mr. Waters, and will also learn why the senior member of Council took no part in them.

12. Respecting the allusion to Mr. Maclean, and Mr. Lewin's letter of the 14th instant, we beg to refer your Honourable Court to the minute recorded by the Honourable Mr. Dickinson, a copy of which accompanies this communication.

Dy. to Cons., 17 November 1846, Nos. 720–722.

13. We take this opportunity of also submitting the correspondence recorded in the consultations noted in the margin connected with the subject; and with reference to the question of the allowance to be drawn by Mr. Waters, subsequent to his removal, under our orders of the 20th October 1846, we beg to solicit the instructions of your Honourable Court.

We have, &c.
(signed) *Hy. Chamier.*
H. Dickinson.

Fort St. George, 13 November 1846.

I have signed this letter *pro formâ*, but am not otherwise a party to it.
13 November 1846. (signed) *Hy. Chamier.*

Appendix, No. 11.

JUDICIAL DEPARTMENT, 17 November (No. 26), 1846.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

IN continuation of our letter in this department, dated 13th November, 1846, No. 25, we have the honour to submit copy of a further correspondence from Mr. M. Lewin, and of the minutes recorded by the members of Government connected with the late proceedings in the Court of Suddar and Foujdarree Udalut.

Cons. 17 November 1846, No.

We have, &c.
(signed) *H. Chamier.*
H. Dickinson.

Fort St. George, 17 November 1846.

JUDICIAL DEPARTMENT, 18 December (No. 30), 1846.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

ADVERTING to our letters in this department, dated 22d October, and 13th and 17th November, 1846, Nos. 24 to 26, we have the honour to submit copy of the further correspondence which has taken place connected with the late proceedings in the Court of Sudder and Foujdaree Adawlut.

Cons. 13 October 1846, Nos. 24. 25.
Cons. 10 November and 1 December 1846, Nos. 22. 23.

2. Your Honourable Court will observe, that having had the conduct of Mr. Phillips, the Register of that Court, under consideration, we were of opinion that that officer acted irregularly and failed in his duty towards the first Judge of the Court, Mr. Waters, and that in preparing for the second and third Judges' draft of a paper of so improper a character, and so entirely personal as their memorial against the Government, which he could not have signed as Register, Mr. Phillips manifested a want of due regard for his own office, and mixed himself up improperly with the proceedings of the second and third Judges. We, therefore, resolved to remove him to a situation in the provinces suitable to his standing in the service, and we have accordingly appointed him subordinate judge of Madura.

3. We solicit the attention of your Honourable Court to the minutes on the subject recorded by our President and the Honourable Mr. Dickinson.

We have, &c.
(signed) *H. Chamier.*
H. Dickinson.

Fort St. George, 18 December 1846.

JUDICIAL DEPARTMENT, 22 December (No. 31), 1846.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

REFERRING to the papers transmitted with our letter in this department, dated 17th November 1846, No. 26, connected with the proceedings in the Court of Sudder and Foujdaree Adawlut, we have the honour to submit an extract from the minutes of consultation of this day's date, together with a copy of the minute recorded by our President, to which allusion is therein made.

We have, &c.
(signed) *H. Chamier.*
H. Dickinson.

Fort St. George, 22 December 1846.

JUDICIAL DEPARTMENT, 22 December (No. 32), 1846.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WE have the honour to transmit a memorial to your address from Mr. T. E. J. Boileau, appealing against his removal from the office of third Puisne Judge of the Court of Suddur and Foujdaree Udalut, and to observe that as this gentleman's case has been brought under the consideration of your Honourable Court in the correspondence submitted with our letter, dated 22d October 1846, No. 24, we submit his Memorial without comment.

We have, &c.
(signed) *H. Chamier.*
H. Dickinson.

Fort St. George, 22 December 1846.

Appendix, No. 11.

JUDICIAL DEPARTMENT, 6 January (No. 9), 1847.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Cons. 5 January 1847, No.

WE have the honour to transmit in continuation of our letter in this department, dated 22d December 1846, No. 31, copies of further communications from Mr. M. Lewin, connected with the recent proceedings in the Court of Suddur and Foujdaree Adawlut.

We have, &c.
(signed) *H. Chamier.*
H. Dickinson.

Fort St. George, 6 January 1847.

JUDICIAL DEPARTMENT, 19 January (No. 10), 1847.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Dy. to Cons., 22 January 1847.

IN continuation of our letter in this department, dated 6th January 1847, No. 9, we have the honour to transmit copy of a further correspondence from Mr. M. Lewin, relative to the late proceedings in the Court of Sudr and Foujdarree Udalut.

We have, &c.
(signed) *Hy. Chamier.*
Hy. Dickinson.

Fort St. George, 19 January 1847.

JUDICIAL DEPARTMENT, 9 March (No. 14), 1847.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Jud. Dy., 2 March 1847, No.

1. IN continuation of our letter in this department, dated 19th January 1847, No. 10, we have the honour to submit copy of a further correspondence from Mr. M. Lewin connected with the late proceedings in the Court of Sudr and Foujdarree Udalut.

2. We have hitherto forborne to notice the several highly improper and reprehensible communications received from Mr. M. Lewin since his removal from his office, deeming them scarcely worthy of notice, and from an unwillingness to take any further step whilst his conduct as a Judge of the Sudr Court was under reference to your Honourable Court. But the letters we have recently received from Mr. Lewin are so totally subversive of all subordination, and in themselves so grossly insulting, that we can no longer tolerate them or allow them to pass disregarded. We have resolved, therefore, under the existing circumstances of that gentleman's case, to forward his communications for the orders of your Honourable Court, and in soliciting your attention to them as well as to previous communications of a similar character, to submit our opinion, that if these letters are not withdrawn from the records by Mr. Lewin, with an ample apology, it is due to the Government who have been thus insulted, and called for also, as an example, to prevent similar misconduct in future on the part of the officers whose cases may be under reference to your Honourable Court, that Mr. M. Lewin's conduct should be visited by dismissal from the service.

3. We have instructed the secretaries to Government not to register nor record such communications, but to report their receipt to the Government, for the purpose of being dealt with in each case as may seem fit, either directing their return to Mr. M. Lewin if not respectfully worded, or disposing of them in the usual course.

4. We beg to draw the particular attention of your Honourable Court to the minutes recorded by the members of Government, and to the proposed draft resolution accompanying the minute of the President, dated 22d February last. The Honourable Mr. Chamier is not a party to our recommendation to your Honourable Court, and entered a protest against the latter part of the draft resolution in the following words: "Seen: I protest against the order in para. 3, and am not a party to the rest of the resolution."

We have, &c.
(signed) *Tweeddale.*
H. Chamier.
H. Dickinson.

Fort St. George, 9 March 1847.

EXTRACT JUDICIAL LETTER, from Fort St. George, dated 26 March (No. 17), 1847.

1. WE have the honour to acknowledge the receipt of your Honourable Court's despatches in this department, dated 20th January and 3d February 1847, Nos. 1 and 2, the former relating to our proceedings connected with the removal of Mr. G. J. Waters, Mr. M. Lewin, and Mr. T. E. Boileau, from their office of Judges of the Court of Sudr and Foujdaree Udalut, the latter respecting the allowance to be assigned to Mr. Waters.

2. In respect to the observations contained in paras. 12, 13, and 19 of the despatch No. 1, we beg to submit copies of minutes recorded by the Honourable Mr. Dickinson and the Most Noble

Noble the President, dated respectively the 17th and 23d March 1847, No. 297 and 308, and to solicit your Honourable Court's attention to the explanations they convey. Appendix, No. 11.

3. We furnished copies of those paragraphs of the despatch No. 1, to Mr. Waters, Mr. Lewin, and Mr. Boileau, as well as to the Court of Foujdaree Udalut, as respectively related to them, for their information. Paras. 1. 8. 11.; Ex. pp. 15 and 16. Paras 1. 9. 11.; Ex. pp. 15 and 17.

4. We also furnished a copy of the despatch No. 2, to Mr. Waters, and authorised the Civil Auditor to pass to that gentleman the salary of a Zillah Judge retrospectively from the date of his removal from the Court of Sudr Udalut. Paras. 1. 9. 11.; Ex. pp. 15 and 18. Para. 1, and Ex. from pp. 15 and 20.

EXTRACT JUDICIAL LETTER from Fort St. George, dated 10 July (No. 31), 1847.

1. WE have the honour to transmit copies of letters to our address from Mr. M. Lewin, of the dates noted in the margin, which we have not deemed to be proper communications to be placed on the records of Government. June 7, 10, 13, 17 19, 26, and 30.

2. We request your Honourable Court's instructions as to the mode in which communications, couched in such objectionable language as has been used by Mr. Lewin, are to be dealt with.

JUDICIAL DEPARTMENT, 11 August (No. 38), 1847.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Para. 1. IN reference to our communication of yesterday's date, we have the honour to submit for your information, copy of a letter from Mr. Lewin, requesting permission to resign the Civil Service, with the view of accepting an annuity, together with copies of our proceedings thereon. Nos. 704 to 708. 546, 547, and 709.

2. Our President and the Members of Council have recorded minutes, of which also we transmit copies, and to which we solicit the particular attention and consideration of your Honourable Court, requesting at the same time to be favoured on an early date with your instructions on the matter they contain.

3. Your Honourable Court will observe that on Mr. Lewiu being informed that the orders of your Honourable Court must be sought and obtained before any instructions could be issued on his application, he has requested that it be withdrawn, and be considered no longer in force.

We have, &c.
(signed) *Tweeddale.*
H. Chamier.
H. Dickinson.

Fort St. George, 11 August 1847.

JUDICIAL DEPARTMENT, 10 August (No. 37), 1847.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

Para. 1. IN continuation of our letter of the 10th ultimo, we have the honour to forward for your Honourable Court's instructions further letters from Mr. Malcolm Lewin. Dated 20, 22, and 29 July 1847.

2. On the subject of that dated the 22d July, the Honourable Mr. Dickinson has recorded the accompanying minute*, to which, and its enclosures, we beg to call your particular attention.

* 26 July. Extract Mins. of Cons. 10 August 1847, No. 548.

We have, &c.
(signed) *Tweeddale.*
H. Chamier.
H. Dickinson.

Fort St. George, 10 August 1847.

JUDICIAL DEPARTMENT, 24 December (No. 57), 1847.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WE have the honour to acknowledge the receipt of your Honourable Court's letter in this department, dated 20th October 1847, No. 20, and to acquaint you, in reply, that, as direct in para. 2, we have furnished Mr. M. Lewin with a copy of that despatch for his information, and permitted him to resign the Company's service, in conformity with the views of your Honourable Court.

Jud. Ext. Mins. Cons., 7 December 1847, No. 795.
Ditto - ditto - 24 December 1847, No. 826; with Papers recorded.
Pub. Dy. to Cons. 17 December 1847, No. 1131.

Ext. Mins. Cons. 24 December 1847, No. 827 A.

2. As connected with this subject, and with the assertions made by Mr. Lewin in the numerous letters addressed to this Government by that gentleman, we also forward copies of an official memorandum submitted by Mr. J. F. Thomas, our chief Secretary, as well as a minute of our President of the 10th December 1847, recorded thereon.

3. Your Honourable Court's special attention is requested to para. 8 of the foregoing minute, and to his Lordship's further minute of the 21st instant, referring to your letter of the 20th October 1847, No. 20, Judicial Department.

Ext. Mins. Cons., 24 December 1847, No. 827; with Papers recorded.

4. We take this opportunity of submitting, for the information of your Honourable Court, an extract from the minutes of consultation of this day's date, with copies of the several papers and minutes of the members of Government recorded therein, which will furnish information of the proceedings adopted for the discovery of the parties who had abstracted from the Secretary's Office certain minutes of the members of Council and resolutions of Government in the Revenue and Judicial Departments, which were published in the "Crescent" newspaper. It will be observed that Mr. M. Lewin's name was incidentally brought forward during the investigations as having written for the "Crescent;" and it was proposed by our President, for reasons stated, that that gentleman should be called upon for definite explanation on points connected with certain letters which appeared in that paper; but, as we have now permitted Mr. Lewin to resign the service, we do not consider it necessary to proceed further in the matter.

We have, &c.
(signed) *Tweeddale.*
H. Chamier.
H. Dickinson.

Fort St. George, 24 December 1847.

DESPATCH, dated 20th January (No. 1), 1847.

(Fort St. George, Judicial Department.)

Judicial Letter, 22d October (No. 24), 1846.
" " 13th November (No. 25), 1846.
" " 17th November (No. 26), 1846.

Removal of the Judges of the Sudder Adawlut.

Para. 1. In your letter of the 22d October (No. 24, of 1846) you have furnished an explanation of the circumstances under which you have been induced to come to the resolution of removing from their office the three Judges of the Court of Sudder and Foujdarry Adawlut, Mr. George Jenkin Waters, Mr. Malcolm Lewin, and Mr. Thomas E. J. Boileau.

2. On the 19th May you had addressed the following instructions to the Court of Foujdarry Adawlut, for the purpose of furnishing us with correct information relative to the acts of violence and outrage which had taken place betwixt the Hindoo inhabitants and the native converts to Christianity in the district of Tinnevelly:

"He" (the Governor in Council) "resolves at the same time, with the view of placing on the records of Government authentic information on the subject-matter of these petitions, to direct the Court of Foujdarree Udalut to lay before the Government copies of the calendars, and of the evidence taken in the Sessions Court, with the sentences of that Court in the several recent cases which have come before the Foujdarree Udalut from the province of Tinnevelly, in which native Christians have been prosecutors and heathens the accused.

"The Court will also be pleased to report in each case by what Judge or Judges of their Court the final sentence or order was passed, together with the sentence itself, and the grounds thereof; also the name of the head of police and of the office in the magistrate's department who investigated the cases in the first instance, and forwarded them to the Court of the principal Sudder Ameen."

3. On the 25th June, Mr. Waters, the first Judge of the Foujdarry Adawlut, addressed a letter to Government, communicating copy of a memorial which he stated that his colleagues, Mr. Lewin and Mr. Boileau, had determined to submit to the Court of Directors, appealing against the foregoing orders of Government, together with copy of a minute which he himself intended to record against the memorial.

4. On the 30th June Mr. Lewin and Mr. Boileau transmitted to Government a memorial to the Court of Directors, the same as the copy which had previously been transmitted by Mr. Waters.

5. On the 2d July Mr. Waters laid before Government his proceedings in certain Tinnevelly trials, in which Mr. Lewin and Mr. Boileau, the second and third Judges, were of opinion that the proceedings were not according to law, and requested that Government would issue orders that the sentences passed by him should forthwith be executed.

6. On the 8th July Mr. Lewin and Mr. Boileau, with reference to the same proceedings, solicited the interposition of Government in order to compel Mr. Waters to conform to the judgment of the majority of the Court.

7. With regard to the whole of these communications from individual Judges of the Sudder Adawlut, we have to observe that they ought immediately to have been returned to the

the respective writers, with instructions to adhere to the regular channel of official correspondence. The departure from that correct rule, which has been allowed throughout the series of discussions under review, has not only loaded the records of Government with irrelevant matter, but has led to much personal invective and recrimination, which might otherwise have been avoided.

8. The first step in the proceedings in question, namely, that of Mr. Waters possessing himself of a copy of a memorial under preparation by his colleagues, and, in his individual capacity, communicating it, without the knowledge of his colleagues, to Government, with his own strictures on its contents, ought, independently of the irregular channel of correspondence, to have been reprehended as discreditable and improper.

9. The memorial itself did not relate to any personal grievance, but was in the nature of an appeal from the authority of Government to that of the Court of Directors on a question of official duty. You, therefore, very properly resolved that it should be returned to the memorialists. Of the whole tone and tenor of the memorial we highly disapprove; and we regard the comments made by Mr. Lewin and Mr. Boileau, on your orders of the 19th May, as unbecoming and unjustifiable.

10. The reference to Government regarding certain Tinnevelly trials by Mr. Waters, and subsequently by Mr. Lewin and Mr. Boileau, not having been made through the regular channel of the Court, ought on that account to have been rejected as informal and objectionable.

11. In the papers laid before Government by Mr. Waters, it was represented that official documents and information had improperly found their way into the newspapers, and this breach of duty was imputed by him to the authors of the memorial. We are surprised that, in drawing the attention of the Judges and officers of the Sudder Court to the point, you did not refer expressly to the notification copied in the margin,* in which the principle, that public documents are only held in trust for the performance of public duties, is so distinctly explained, and the violation of that principle is so positively prohibited. We observe that Mr. Boileau, as well as the register of the Court and his deputies, disavowed having communicated any official information to the newspapers. A similar disavowal was not made by Mr. Lewin, who has even denied the right of Government to question him on the subject; and Mr. Waters acknowledged that on one occasion he had himself published, under a feigned signature, a letter relating to discussions in the Court.

12. In a minute of the 22d July, Mr. Dickinson complained in warm terms of Mr. Lewin's having objected to the record of the trials regarding which the Judges of the Foujdarry Adawlut had severally appealed to the authority of Government being made over to him as Chief Judge of the Sudder Court, and renewed the suggestion previously made by him, that Mr. Lewin should be removed from his office. The Governor, on the other hand, proposed in a Minute of the 28th July, that a communication should be made to the Judges of the Sudder Court, expressing the regret felt by the Government at the warmth and the personal feeling manifested by them, and at the impropriety of bringing matters depending before the Court under discussion in the newspapers, and at the same time assuring them of the desire of Government to maintain the Court in all its integrity and efficiency. Should such a measure not have the effect of recalling the Judges to a sense of what was due to their stations, Lord Tweeddale intimated his determination to resort to the necessary interposition of the authority of Government.

13. We find no satisfactory explanation, and are unable to understand why the temperate and considerate course proposed by your President was not adopted by Mr. Dickinson, the member of Government at the Presidency. The neglect to do so, animadverted upon in the President's

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* Extract, "Fort St. George Gazette," 22 September 1843.

Fort St. George, 21 September 1843.

The following Notification of the Government of India is republished for general information.

No. 150.—Notification.

Fort William, Foreign Department, 30 August 1843.

Some misconception appearing to exist with respect to the power which officers of both services have over the documents and papers which come into their possession officially, the Governor-General in Council deems it expedient to notify that such documents and papers are in no case to be made public, or communicated to individuals, without the previous consent of the Government, to which alone they belong.

The officer in possession of such documents and papers can only legitimately use them for the furtherance of the public service in the discharge of his official duty; and it is to be understood that the same rule which applies to documents and papers applies to information of which officers may become possessed officially.

By order of the Right Honourable the Governor-General of India in Council.

(signed) *J. Thomason*,
Secretary to Governor of India.

Republished by order of the Most Noble the Governor in Council.

(signed) *G. D. Drury*, Chief Secretary.

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President's minute of the 1st of September, is the more to be regretted, as the chief part of the exceptionable proceedings on the part of Mr. Waters and Mr. Lewin was of subsequent date, and might have been prevented.

14. The subsequent letters addressed to Government severally by these two gentlemen were very numerous. They were all of them liable to the same observation as to official informality, and became more and more acrimonious and reprehensible. They related to the topics above adverted to, and to personal altercations arising out of them, in which the writers had been engaged. Mr. Lewin's letters were extremely disrespectful and insubordinate towards the Government.

15. In consequence of the state of things thus described, your President, in two Minutes, dated the 12th of September, proposed the removal of the three Judges; and that measure was carried into effect, Mr. Dickinson dissenting as far as relates to the removal of Mr. Waters. It is with deep concern that we express our entire concurrence in the propriety of removing the three Judges.

16. We have already animadverted on the conduct pursued by Mr. Waters at the commencement of these proceedings, in transmitting to Government, in his individual capacity, a copy of a memorial which was only under preparation by his colleagues, and which might have been suppressed if he had objected to it in a candid and conciliatory spirit, instead of making it the ground of secret accusation. The bitter animosity also with which he assailed not only Mr. Lewin throughout the correspondence, but also Mr. Phillips, the register, who had merely obeyed the instructions of his superiors, in drawing up the memorial, is such as we must highly disapprove. In having recourse to newspaper publication Mr. Waters was the more to blame, as he made this breach of public duty a chief ground of his complaints against Mr. Lewin. Finally, the allusion to religious topics, with which Mr. Waters' writings abound, is strongly to be condemned, as evincing a want of sound judgment, and of a proper regard for the relation in which the Government stand towards its native subjects.

17. Mr. Lewin was deserving of severe censure for the memorial and the minute relative thereto. Instead of atoning for that impropriety, he has greatly aggravated it by the whole tenor of his subsequent correspondence. He has reproached the Government with being controlled by party influence, and has disputed and insulted their authority. He has assailed individuals whose conduct was not under his cognizance. In the face of positive assurances furnished to him, he has persisted in imputing wrong motives and views to the Government; and, giving way to his excited feelings, he has thrown off all regard to subordination, and has permitted himself to use language highly intemperate and offensive. He has not only failed to take advantage of the opportunity afforded him to disavow, if he could do so with a due regard to truth, having given publicity in the newspapers to official information and documents relating to subjects under discussion betwixt himself and his colleagues, and betwixt the Government and the Sudder Court, but he seems even to lay claim to a right to commit this breach of the express orders quoted above, as well as of the most obvious principles of public duty.

18. The offence of Mr. Boileau, the third Judge, consisted chiefly in his participation in the objectionable memorial and minute accompanying it. Of this conduct we have already expressed our strong disapprobation; and we think it right to confirm your resolution, transferring him to a Zillah Court, with the same allowances he received previously to his promotion.

19. The proceedings which have been under review had their origin in occurrences connected with missionaries and native converts to Christianity; and we have observed with deep concern the disposition evinced by all parties to give their disputes a religious character. This disposition, so incompatible with the calm and impartial administration of justice, is not less at variance with those principles of policy upon which it has been the uniform object of the British Legislature, and of the public authorities in this country, that the Government of India should be conducted. It cannot too strongly be deprecated. In particular, our attention has been attracted to a circumstance entirely new to us; we mean the use of the term "heathen" to signify the people of India. As applied to Hindoos, or to Hindoos and Mahomedans conjointly, it cannot but be felt as an opprobrious epithet. We consider it to be repugnant to that regard for the feelings of the people which forms an essential part of genuine toleration. We should therefore have expected that the phrase "heathen" would have been censured by Government on the first occasion of its being used in official correspondence; and we have observed with equal surprise and disapprobation, that the phrase is adopted in the proceedings of the Government itself, and in the very letter now under reply. You are aware of our strong impression that it is the duty of Government, and not less so of its officers, to stand aloof from all missionary labours, either as promoting or as opposing them. Towards that end it is indispensable that official language should not be employed which is without meaning, unless as it has reference to the object of such labours. We shall for the future rely on your exercise of sound discretion, as well as of vigilant attention, in carrying these views into effect.

20. We are of opinion that no useful end would be answered by transmitting to us copies of the Tinnevelly trials; and we desire that no further steps be taken for the purpose. We further desire that these and any similar proceedings may not be taken out of the usual course of judicial inquiry.

Public

PUBLIC DEPARTMENT, 20 January (No. 4), 1847.

Our Governor in Council at Fort St. George.

Para. 1. IN our despatch in this department, of the 17th September 1845, No. 36, we announced the appointment of Mr. Malcolm Lewin to be a provisional ember of Council for Madras.

2. We have now to acquaint you that we have cancelled that appointment.

We are, &c.
(signed) *J. W. Hogg,*
&c. &c.

London, 20 January 1847.

JUDICIAL DEPARTMENT, 14 April (No. 2), 1847.

Our Governor-General of India in Council.

Removal of the Judges of the Su der Adawlut at Madras.

WE have received your letter in this department (No. 20) of the 12th December last, relative to a reference from the Government of Fort St. George, for your opinion with regard to their competency to suspend from the Company's service a person holding a provisional appointment as a member of Council, and with regard to the competency of a member of the Government to decline taking part in its proceedings; and in reply, we have to refer you to our despatch* of this date, to the Government of Fort St. George.

* (No. 7.)

We are, &c.
(signed) *J. W. Hogg,*
H. St. G. Tucker,
&c. &c.

London, 14 April 1847.

JUDICIAL DEPARTMENT, 14 April (No. 7), 1847.

Our Governor in Council at Fort St. George.

Judicial Letter, 18 December (No. 30), 1846.
" " 22 " (No. 31), "
" " 22 " (No. 32), "

Removal of the Judges of the Sud dur Adawlut.

1. THE letters noted above, have reference to proceedings connected with the removal of the Judges of the Court of Suddur Adawlut.

2. In the letter of the 18th of December (No. 30), you inform us that you were of opinion that Mr. Phillips, register of that Court, "acted irregularly, and failed in his duty towards the first Judge of the Court, Mr. Waters, and that in preparing for the second and third Judges, draft of a paper of so improper a character, and so entirely personal, as their memorial against the Government, which he could not have signed as register, Mr. Phillips manifested a want of due regard for his own office, and had mixed himself up improperly with the proceedings of the second and third Judges." You state that you have therefore removed him to the situation of subordinate Judge of Madura.

3. You will have learned from our despatch of the 20th January (No. 1), that, improper as the memorial is considered by us to have been, we were of opinion that Mr. Phillips had "merely obeyed the instructions of his superiors;" and in reviewing the whole proceedings, we have not found reason to suppose, in opposition to Mr. Phillips' assurance to the contrary, that any disrespect was intended by him towards Mr. Waters or the Government. We should therefore have been prepared to acquiesce in your decision if you had left him in the office of registrar, but as you have deemed it expedient to transfer him to another office, we trust that you will find an early opportunity of promoting him, in a manner which you may consider consistent with the interests of the public service.

4. With your letter of the 22d of December (No. 32), you transmit to us a memorial from Mr. Boileau, appealing against his removal from the office of Judge of the Court of Suddur Adawlut. We have already shown that we consider Mr. Boileau deserving of greater lenity than Mr. Lewin or Mr. Waters; but the perusal of his memorial has not altered the opinion we have expressed in our despatch of 20th January (No. 1), 1847, approving of his removal. You will therefore apprise him that we cannot comply with the prayer of his memorial.

5. The Government of India have communicated to us their reply to the reference which you had made to them with regard to the competency of the Local Government to suspend from the Company's service a member of it provisionally appointed to a seat in Council, and also with regard to the competency of a member of Council to decline taking part in its proceedings.

6. On the former of these questions, we have to state, that the competency of the Local Government to suspend one of our servants from the service extends to the case of a civil servant provisionally appointed by us to succeed to the office of member of Council; and as

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a person so suspended could not, under 53 Geo. 3, c. 155, s. 83, be restored to the service without the consent of the Commissioners for the Affairs of India, it follows that he could not assume office under such provisional appointment, if the contingency named in it should intermediately happen, until the authorities in England had notified to you the fact of his restoration to the service.

7. Regarding the second queston, we have, in the first place, to state that Mr. Dickinson's conduct was most unjustifiable in hurrying on the decision on the question submitted to Council in the two minutes of Lord Tweeddale, dated the 12th of September; the resolutions of council were issued on the 17th September, although Mr. Chamier was expected to return, and did return to the Presidency on the following day. This precipitancy was the more improper, as the Governor's recommendations were only partially adopted by Mr. Dickinson. Mr. Chamier was thus excluded from taking a part in very important proceedings in which it ought to have been the wish of his colleague to afford him the opportunity of having a voice.

8. We must also express our entire and unqualified disapproval of Mr. Chamier's conduct in refusing to take part in proceedings brought forward subsequently to his return to the Presidency. This failure in his bounden duty is more particularly deserving of censure, as the head of the Government had requested to be made acquainted with his sentiments, and was entitled to demand the cordial assistance of a gentleman placed in Council for that express purpose.

We are, &c.
(signed) *J. W. Hogg,*
H. St. G. Tucker,
&c. &c.

London, 14 April 1847.

JUDICIAL DEPARTMENT, 22 June (No. 13), 1847.

Our Governor in Council at Fort St. George.

Mr. M. Lewin.

OUR letter of the 20th of January last will have apprised you of the severe punishment with which we have visited the insubordinate and indecorous conduct of Mr. Lewin. Severe as that punishment undoubtedly is, we might have felt it our duty to vindicate the respect due to you, by making the example even more impressive, if we had had before us the very offensive language to which you have called our attention in your despatch of the 9th of March. We are willing to hope that the course we have already taken will have recalled Mr. Lewin to a proper sense of his position in relation to the Government he is appointed to serve; and as the correspondence now before us is anterior to his knowledge of our proceedings, we shall take no further notice of it at present than to repeat for your satisfaction our determination to uphold your just authority in the consideration of any measures which may be essential to its vindication.

We are, &c.
(signed) *H. St. G. Tucker,*
J. L. Lushington,
&c. &c.

London, 22 June 1847.

EXTRACT JUDICIAL LETTER to Fort St. George, dated 7 July (No. 16), 1847.

Para. 1. IN your letter in this department, dated the 26th of March 1847 (No. 17), you have reported the manner in which you acted upon the instructions conveyed to you in our despatch under date the 20th of January and 3d of February 1847 (Nos. 1 and 2); of these proceedings we approve.

2. We do not consider it necessary to resume the discussion of any of the questions to which our despatch of the 20th of January had reference.

JUDICIAL DEPARTMENT, 20 October (No. 20), 1847.

Our Governor in Council, at Fort St. George.

Mr. M. Lewin.

Para. 1. WE have received your letters in this department, dated the 10th July (No. 31), and the 10th August (No. 37), 1847, forwarding communications addressed to your Government by Mr. Malcolm Lewin, formerly one of the Judges of the Sudder Adawlut; and also your letter dated the 11th August (No. 38), 1847, respecting an application from the same gentleman for leave to resign the Company's service, with a view to the acceptance of an annuity on the Civil Fund. You solicit our instructions on the contents of these letters.

2. The intemperate and insulting terms in which Mr. M. Lewin has so frequently addressed your Government and this Court, since his removal from the Sudder Adawlut, have been regarded by us rather as the ebullitions of a mind under violent excitement, and therefore incapable of deliberate reflection, than as conveying imputations against your Government or any one of its members, which called for any proceeding on your part to disprove or to repel them. The most indulgent interpretation which can be given to that gentleman's

gentleman's conduct is, that he was himself unconscious of its impropriety. We have never regarded his gross assertions as calling for explanation or defence from the individuals against whom they were most unwarrantably directed. The Marquis of Tweeddale's conduct throughout the proceedings connected with Mr. M. Lewin's removal has, as you are aware, received our cordial approbation, and we have read with much satisfaction the following statement of his Lordship's sentiments:—"I shall take the liberty to add, that so far as Mr. M. Lewin is personally concerned, I can have no desire but that he should retire, as other gentlemen of the Honourable Company's service, with all the advantages to himself and his family secured by the Honourable Company's annuity." Our feelings towards Mr. Lewin entirely correspond with these expressions of his Lordship. We did not hesitate to mark our displeasure at Mr. Lewin's misconduct, and to uphold the authority of your Government, by confirming your resolution to remove him from the high office of Judge of the Sudder Adawlut, and still further by cancelling his appointment to succeed to a seat in Council. But we should be very reluctant to proceed to the extreme measure of punishment usually reserved by us for cases of moral turpitude, by dismissing him from our service, and thereby depriving him and his family of the benefits of the retiring fund, towards which our servants are required to contribute. We trust that Mr. Lewin, to whom we desire you to communicate this despatch, will not persist in a total disregard of the duties of subordination and respect towards the constituted authority under which he serves; and in this hope we authorise you, if he should make an application in becoming terms, to comply with Mr. Lewin's wish for permission to retire from our service, with the view of accepting an annuity on the Civil Fund. Appendix, No. 11

3. We approve of your resolution reported in your letter of the 9th of March last (No. 14), not to place on record representations so unfounded and objectionable as those which form the subject of the present despatch.

We are, &c.
(signed) *H. St. G. Tucker,*
J. L. Lushington,
&c. &c.

London, 20 October 1847.

Judicial Department, 4 April (No. 6), 1848.

Our Governor in Council at Fort St. George.

Reply to Court's orders regarding Mr. M. Lewin.

Para. 1. In your letter in this department, dated the 24th December last (No. 57), you acquaint us that, in conformity with the views expressed in our despatch of the 20th October last, you have permitted Mr. Malcolm Lewin to resign the Company's service, in order to his acceptance of an annuity on the Civil Fund. At the same time you again draw our attention to circumstances connected with that gentleman's removal from the Sudder Court, and from the provisional appointment to a seat in Council, regarding which our sentiments have already been communicated to you.

2. We learn also from your present letter, that copies of minutes and other papers had been surreptitiously abstracted from the office of the secretary to Government by native servants on his establishment, and had been published in a newspaper, the "Crescent." We presume that besides Jyasawmy, the chief offender, every person implicated in so unjustifiable a proceeding has been dismissed from the public service, and that measures have been taken for securing the records of Government from any such abuse for the future. It seems to us that the superintendence over the establishment must have been very lax and inefficient, when such a practice could continue for a considerable time without detection, after attention had been drawn to its existence.

3. With respect to the proof obtained from the printer of the "Crescent," that Mr. M. Lewin was in the habit of supplying articles for publication in that newspaper, relative to the proceedings of the Sudder Court, and to the measures of Government, (a fact not denied but defended by that gentleman), it is unnecessary in this stage of the transaction to make any observations on the circumstances attending it. In any similar case, however, we direct that until our opinion can be ascertained, the Government shall remove from office any person who, in opposition to orders which have been repeatedly given, no less than to the most obvious principles of duty, shall be known to publish the official records to which he has access, or even his own writings, for the purpose of thwarting the views of the Government which he serves.

We are, &c.
(signed) *H. St. G. Tucker,*
J. L. Lushington,
&c. &c.

London, 4 April 1848.

Correspondence with Mr. *M. Lewin.*

Sir, Madras, 22 September 1846.

The Government of Madras have removed me from the office of second Judge of the Court of Sudder and Foujdarry Adawlut, as stated in "Extract from the Minutes of Consultation," under date 17th September 1846, "until the pleasure of the Honourable Court of Directors, to whom the whole correspondence will be submitted, shall be known." The cause of this

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this measure is not very apparent in the proceedings of the Government. I will, however, pledge my honour to the Court to show by the next overland mail that it originates in the misconduct of the Government, and is attributable to no other cause.

A gentleman of high rank and station, to whom I submitted the papers, returned them with the following remark: "I observe, that in this State paper there is no charge whatever of malversation in your office, or even of neglect of your duty; nor does it disclose any other of the grounds which are usually deemed a sufficient foundation for the removal or suspension of a high judicial officer. I therefore trust, that a very short consideration of the case by the Home Authorities will lead to your immediate reinstatement; they will probably be of opinion that all the fractional charges brought against you might afford very good reasons for dismissing a butler or footman, but not for removing a high civilian or a Judge."

Although my moral character is not attacked by the Government, and the enclosures will show you the estimation in which it is held in public, still there is a certain stain cast upon every one's fame whom the Government removes from office, even though the act may in reality indicate nothing more than malversation or corruption in the Government.

This stain I call upon the Honourable Court to remove from me; the loss of pay I am not insensible to, but I leave that matter out of the question when considering loss of character.

It is probable, on the Government's own representations, my reinstatement will be immediately ordered; for the most that has been alleged against me is, that I have shown a determination to uphold the honour and independence of the Court of which I was a Judge, and opposed myself to the Government; the necessary result of the latter attempting to force the majority of the Court into acts of injustice, directed to the forcible conversion of the Hindoos to Christianity.

Whatever opinion the Honourable Court may come to, I beg at once to state that the case admits of no compromise, and that I shall be never satisfied until the misconduct of the Government is laid open to public view, and until my character is as publicly vindicated as it has been publicly assailed by my removal from office.

The Government having on a late occasion refused to forward a joint memorial of Mr. Boileau and myself, I am constrained to adopt this medium of communication.

To the Secretary,
East India House, London.

I have, &c.
(signed) *M. Lewin.*

Extract from the "Madras Spectator," 19 September 1846.

"We learn from the Gazette of last night that the Marquis of Tweeddale has appointed W. A. Morehead, Esq., to officiate as second Puisne Judge of the Court of Sudr and Foujdarry Adalut until further orders;" or, in other words, that his "Lordship has been misled into (at least) temporarily suspending the functions of the holder of that appointment, whose uncompromising resistance to the attack made on the honour and independence of the Court, together with his stand against the illegal assumption of one of his colleagues, has given so much anoyance to the feeble, but at the same time oppressive Government, which sits like an incubus upon the vital energies of Madras. That some such extreme measure would be resorted to, by way of cutting the Gordian knot of those difficulties wherein the Marquis has been betrayed by mal-advisers, was long ago bruited abroad; but we confess that our reliance on his Lordship's good intentions, if not on his wisdom, occasioned us to attach but little credence to the tale. We did not imagine that even his vision could fail of discerning the perilous nature of such a course towards a high public servant, who stood up merely in the discharge of his duty as a just judge, and a defender of the integrity of that power which had been assailed from without. We reckoned, however, without our host, and gave his Lordship credit for more than he possesses. Had he taken similar measures with the first Judge, Mr. Waters, whose opposition to the law and to the Court was at the bottom of the unhappy differences which have embroiled the Executive and judicial authorities, there would have been less reason for complaint, because we should have thus seen evidenced a desire to administer impartial justice between the conflicting members of the Foujdarry Adalut, but the displacing of the champion of the Court's privileges, and the withstander of unauthorised inflictions on the native population, while the party who forced him into resistance by ill-advised proceedings, is suffered to retain his seat, betrays such a one-sidedness on the part of Government as must strike even the least penetrating among observers. There is, however, good bound up in the evil, for the matter cannot of course rest here, and when it comes to be thoroughly sifted by superior power, there will be large displays of unavailing penitence with some who now conceive that they have triumphed. We do not envy the first Judge and his supporters either their feelings or their success of momentary endurance; meanwhile it is gratifying to reflect, that the gentleman chosen to officiate as second Puisne Judge of the Court is not only one of the ablest civil servants of Madras, but likewise the very last person who would abet Mr. Waters' pretensions, or play the game of Mr. Thomas."

"Since the foregoing article was written, we have received information which leads us to apprehend that our strictures on the apparent partiality of the Marquis are not altogether well founded. His order, it appears, was applicable in the way either of suspension or removal, to Mr. Waters as well as to the second Judge, but the Honourable Mr. Dickinson, whose part in fanning the strife between Government and the Court says little for his judgment

ment or good feeling, is understood to have taken it upon himself to delay the operation of it with reference to the first Judge, who thus escapes his punishment for a season. If this be really the work of Mr. Dickinson, we can say only that we esteem his proceedings as improper as they are questionable in point of legality and justice. The Marquis, however, is under such circumstances less reprehensible than the announcement in the Gazette had led us to imagine." Appendix, No. 11.

Extract from the "Madras Atlas," 21 September 1846.

"We have heard with great regret that the recent proceedings connected with the Sudder Adawlut, the Government intimidation order, and the Tinnevelly trials, have been brought to a close for the present, by the suspension of Mr. Lewin, the second Judge, and the appointment of Mr. Morehead (a well-known personal friend of a very influential individual) to act in his stead, and by the removal (to be carried into effect as soon as possible) of Mr. Boileau, the third Judge, back to his former appointment.

"In one point of view, we confess that this very summary and arbitrary proceeding, will, if sanctioned by the Court of Directors, be utterly fatal to the independence of the Court of Sudder Adawlut; it will be tantamount to a declaration that the principal court of justice in the Madras Presidency is to consider itself as appointed merely to carry into effect the will and pleasure of the Government, not to administer the laws and regulations professedly established as its rule of guidance. The public cannot fail to see that the real question (let the Governor and his advisers try to disguise it as they may) upon which the two Sudder Judges have been dismissed, is simply this, that they considered it their duty to maintain the letter and spirit of the regulations established for their guidance, and which they are sworn to uphold, against the mere will of the Government, *i. e.* of Lord Tweeddale alone, as advised by his companions at the Neilgherries. We must say we fear the two Sudder Judges had better grounds than we at the time were willing to believe; for, considering the recent order addressed to them by the Governor as 'an intimidation order,' and if that order, coupled with the present dismissal of the two Sudder Judges, is to have its natural and probably intended effect, the result will be that the Court of Sudder Adawlut will consider itself, and be considered by all others, as a mere board for registering and carrying out the good pleasure of Government, and, as a necessary consequence, may henceforward be with perfect propriety composed of the youngest or most 'squeezable' men in the Civil service, instead of, as heretofore, its oldest and ablest members.

"One thing is obvious, that this Government does not consider it desirable, far less necessary, that the Company's chief Court should possess that which has ever been so desirable for British courts of justice, namely, public confidence in the independence and unbiassed nature of their decisions.

"We are sorry to say that the foregoing is not the only unfavourable, perhaps even not the most unfavourable aspect of these arbitrary proceedings. In Mr. Lewin's case we doubt not that the Governor has laid ample stress on certain alleged warmth of language, said to have been used by that gentleman towards his colleague, Mr. Waters (whose own language though, as we hear, not perfectly cool, seems to have been favoured with an act of oblivion), and also in his official remonstrances against the recent interference of the Executive with the Judicial power; but why replace him by Mr. Morehead in particular? and why remove Mr. Boileau, against whom no undue warmth of language can be alleged.

"It is impossible not to see the connexion between the removal of the Sudder Judges and the late interference of the Governor in favour of the Tinnevelly converts.

"Such an interference, under certain circumstances and to a certain extent, we might approve of; nay, we did so, believing its only object was to secure justice to those who, without it, might be unlikely to meet, and we believe had not met, with fair-play at the hands of certain native heathen judicial officials. We confess the facts now before us make us doubt whether we did not err in admitting any exception to the sound general rule, that the Judicial power must be sacred from the authoritative interference of the Executive.

"We then, however, approved of the act of the Governor, believing it conscientiously intended to produce only the effect we have mentioned; but we hesitate not to say that the two Sudder Judges who opposed that interference, and who were of opinion that the native converts had had fair-play, are equally entitled to an avowal of our belief that they too acted under conscientious convictions.

"We did approve of the Governor's interference, and we trust we have ever shown ourselves a sincere friend to the cause of missions and the spread of Christianity, and on these grounds we claim to say, both for the sake of missions and of Christianity, that from our heart and soul we deprecate attempting to advance them by means wearing even the appearance of persecuting those who conscientiously declined concurring in measures which, however well intended, were certainly unusual and extraordinary, if not irregular.

"Nor must it be wholly forgotten, though this is a branch of the subject upon which we do not wish to enlarge, that proceedings like the present will give but too strong a handle to the enemies of missions to proclaim that the Madras Government (and the Court of Directors too, if they sanction these proceedings) has become a proselyting Government; a belief as little calculated to produce confidence and tranquillity among their native subjects, as to ensure purity of motive in any future conversions."

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EXTRACT from the "Madras United Service Gazette," 22 September 1846.

"THE official Gazette of Friday announces the appointment of W. A. Morehead, Esq., to officiate as second Puisne Judge of the Court of Sudder and Foujdarree Adawlut. From this we may infer that the Marquis of Tweeddale has been induced, at the bidding of the clique which in reality governs the Governor, to suspend the second Puisne Judge of the Sudder Adawlut in his functions. The manner of the temporary vacancy occurring is not, however, made known, and very prudently so we think, as, if facts were candidly and fully stated, the order removing the second Judge of the Sudr would run somewhat in this wise: 'M—— L——, Esq., second Judge of the Court of Sudr Adawlut, is suspended from the functions of his high office for having (in conjunction with the third Judge) sternly and independently resisted the unwarrantable measures attempted on the integrity and independence of the Sudder Court, and more especially for having opposed the illegal assumption of the first Judge, thereby thwarting the Chief Secretary and his clique in their intended infliction on the natives of Tinnevelly, and thus causing annoyance to the Executive.' This matter, though, is too serious for a jest, since it is indeed deeply to be deplored that the baneful influence of a 'party' has for the moment operated to deprive the public of the services of the ablest, most upright, and independent judicial officers in the Company's service; one, moreover, who has been selected as possessing those high qualities to succeed to the first vacancy in Council at this Presidency. We have for some weeks past heard that attempts were making to induce Lord Tweeddale, on the reputation of his own Government, for no other than suicidal can we term an act betraying such unblushing partiality on the part of Government, that it must force an investigation into the whole affair by superior authority; and the result of such investigation, unless we are greatly mistaken, can hardly be otherwise than of a nature to induce his Lordship to retire from public life even before the brief tenure of office remaining to him shall have expired.

"Since the above was in type, we learn from the 'Atlas' that the third Judge of the Sudr is also to be removed from his high office. We subjoin our cotemporary's dispassionate view of this affair, admits* that he had previously a bias in favour of the measures of Government."

* *Orig.*

Sir, East India House, 20 January 1847.

IN my letter of the 19th September 1845, you were acquainted that the Court of Directors of the East India Company had appointed you to be a provisional member of Council for Madras.

I have now the commands of the Court to inform you that they have cancelled that appointment.

I have, &c.
(signed) *James C. Melvill*,
Secretary.

Malcolm Lewin, Esq.,
&c. &c. &c., Madras.

To the Secretary, East India House, &c. &c. &c.

Sir,

I HAVE had the honour to receive your letter of date the 20th January last, informing me that the Honourable Court had been pleased to cancel the appointment of provisional member of Council, notified to me by your letter of date the 19th September 1845.

The reasons of the measure I shall probably be made acquainted with hereafter, through the Madras Government.

It was not my intention to have addressed the Honourable Court, but to have received their award with submission; nor should I now do so, if I had not to-day received intelligence that the Madras Government had suggested to the Honourable Court my dismissal from the service, in a despatch which will be conveyed to them by the mail about to leave Madras. Of the reasons of the suggestion I am not informed, but believe they have reference to the style of my correspondence with the Madras Government.

Without venturing to excuse this, I will refer to the cause which led me to depart from the respect which is due from a servant to the Government, under a sense of aggression or other circumstances.

When the Madras Government addressed to me the language contained in the 9th para. of their Proceedings of the 17th September last, language which I trust I have shown was not the result of due inquiry, and which could only be justifiable as a judicial sentence, the result of a full and open inquiry, before a legally constituted tribunal or commission, I was overcome by the sense of indignity, and by the reflection that such language, if not cast off, must prove injurious to my character.

I sought in vain to induce the Government to remove from the records language which, I am ready to prove, was unjustifiable; and to effect this, I became careless as to the means by which a measure which I deem of importance above all others, should be effected. With the deep sense of wrong received at the hands of the Madras Government, I am aware that I have resorted to language which the Honourable Court would not approve, and I can only now appeal to them for a consideration of those feelings which naturally (however unbridled they may have displayed themselves) would arise in the breast of every honourable man.

I trust

I trust the Honourable Court will be of opinion, that the ruinous consequences of my removal from office, and from a seat in Council, will be deemed sufficient to meet the circumstances which have been urged against me, should they decide on refusing a full and open inquiry.

I will submit to the Honourable Court, that the punishment suggested by the Madras Government, is that which would be due to some grave moral delinquency, and that it could not be exceeded under the fullest proof of such delinquency.

Before such a measure is resorted to, I would appeal to the justice of your Court for an opportunity of justifying myself before a commission constituted under the regulations. I have been condemned without trial; though I have placed my justification before the Honourable Court, a heavier punishment could not befal me than the one suggested by the Madras Government, if I were utterly without justification. And am I, after having spent two-thirds of my life in the service of the Company, to be turned adrift for the employment of language excited by the wrongs I have received from the Madras Government? For language, of which the first example was given by the Government itself, in the 9th para. of their Proceedings of the 17th September 1846.

Act XIII. of 1843 was passed expressly to meet and punish the misconduct of public officers; and am I to be debarred from the protection of that enactment, when I declare myself ready to submit to its penalties? Am I to be turned adrift, and to be removed from an honourable service, without any public delinquency proved against me?

I will not trespass further on the time of your Court. I trust that if the severe measures recommended by the Madras Government are listened to, it will not be until I have had the means of exposing the merits of the case, that the world may know, if I am removed, why I am removed.

I have, &c.

13 March 1847, Madras. (signed) *M. Lewin.*

To the Secretary to the Court of East India Directors.

Sir, Madras, 24 January 1848.

The Madras Government have transmitted to me the Court's despatch, dated 20th October 1847, on the subject of my resignation of the Civil Service. I protest against the Court of Directors repudiating my assertions as they have done when I offered at my personal risk to prove them. The Court of Directors are not justified in imputing to me that I have made use of unfounded assertions, and I tell them that in doing so they have violated truth and their duty. If I had ever * my word, as a member of the Civil Service impugned, they might be justified in the treatment I have received from them, but as this is not the case, I throw back their imputations with contempt.

* *Sic. orig.*

The Court of Directors know where the truth and the justice of the case lie, and by God's help, when I reach England, the truth and justice of the case shall be publicly exposed; it shall be seen whether the Court of Directors are justified in upholding a Governor, every one of whose acts they have annulled, and victimizing one of their servants, in order that they may avert the wrath of the Marquess of Tweeddale and of his friends.

I have, &c.

(signed) *M. Lewin.*

Sir, (No Date.)

I have the honour to request, that, with the permission of the Court of Directors, you will furnish me with copies, or allow me to peruse the entire record and correspondence which passed between the Madras Government and the Court of Directors, on the subject of the dismissal of the Judges of the late Sudder Court. I make this request, because I know that the Court of Directors have been in part misled, owing to the facts of the case having been misrepresented by the Madras Government, and because the Madras Government, being ashamed to produce the despatches of the Court of Directors, have put forth such only as served their own purposes, and suppressed the rest.

The Court of Directors have long been aware that the despatches from the Madras Government were false; they have also not scrupled to denounce in their orders the conduct of the Madras Government, both individually and collectively; but though their punishments have reached the parties injured by the acts of the Government, the aggressor and wrong-doer have been allowed to escape.

Although it is well known both here and in India, that there are few of the Court who have not denounced the conduct of Mr. Dickinson in terms which show they entertain the lowest opinion of his moral character; although the Court of Directors have openly accused Lord Tweeddale of acting on "secret accusations," (which they have admitted were the cause of all that took place) they have refrained from noticing the proceeding except on the party against whom the "secret accusations" were made.

The Court of Directors have refused inquiry: had I been a Judge of one of Her Majesty's Courts, or even a subordinate officer (such as a Master of Equity, accused of extortion and corruption), I should have had an opportunity of being heard by counsel, and of having my case laid open and exposed to public view; and is the conduct of a Judge, and his independence, of less moment because his jurisdiction extends over black instead of white men?

The Court of Directors cannot but be aware that my removal from office by the Marquess of

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of Tweeddale was illegal, as he was living apart from his council, on the Neilgherry Hills: they cannot but know that he was not Governor. It is well known that there are few of their body who have not acknowledged that, had the Marquess of Tweeddale been at Madras, instead of separated from his office at the Council Board, that the rupture between the Sudder Court and the Government would not have taken place; they well know it was the falsehood and insults of the Madras Government which provoked the insults offered by me to them: they know what the conduct of Mr. Dickinson was, in issuing the order for my removal the day before Mr. Chamier's return to Madras, and withholding the order to the same effect in respect of the secret accuser, Mr. Waters.

The Court are well aware, collectively and individually, of Lord Tweeddale's incompetence, and that the disputes in the Sudder Court would not have arisen, if two men so unfit as Mr. Boileau and Mr. Waters had not been appointed to it; and am I to be the scape-goat of Lord Tweeddale's imbecility and misconduct, when it is not going too far to say that but for me the Court would not have gone on as long as they were in it? Am I to suffer because Lord T. chose to appoint two men to the highest court in the country, who were known to be unfit? Am I to be ruined because I upheld the right, and prevented the Court, of which I was a Judge, being made an instrument of oppression and injustice? Had I allowed the unjust sentences which the Government stimulated Mr. Waters to pass to take effect, I should still be holding office and emoluments; and am I to suffer because I would not render myself infamous?

The Court of Directors cannot be ignorant that it was to cover their own blunders that the Madras Government found it necessary both in the case of the 6th Cavalry and of the Sudder Court, to invent a cause of offence, and thus turn attention from their own delinquency. Did not the Government in the first instance refuse the battah, and in the second, send the order of the 19th May to the Sudder Court, which the Court of Directors have annulled? And was not the battah enforced, and with it tranquillity?

The Court of Directors are well aware that Mr. Dickinson suppressed the main papers in the Sudder Court affair, in order to enable him to pass a false judgment (surreptitiously keeping copy of the same for after purposes), which had been returned to me on grounds of informality; they are aware also that he suppressed a conciliatory minute of Lord Tweeddale. Mr. Dickinson has informed me (in a letter which he addressed to me when in Madras), that the blame was neither his own, nor that of Lord Tweeddale. Why, I would ask the Court of Directors, is not an inquiry to be made as to whose fault it was?

Mr. Thomas, the present Chief Secretary of Madras, having taken the opportunity of my absence from Madras to disclaim the concern imputed to him in the rupture between the Sudder Court and the Government, I think it necessary to inform the Court of Directors that this disclaimer is wholly untrue. The Order of the 19th May I have seen; it is corrected in the handwriting of Mr. Thomas, and no one acquainted with the influence he exercised over Lord Tweeddale would or could believe that any order so important could have issued without his sanction.

I have no intention in the foregoing to offer any disrespect to the Court of Directors. I think I am in justice entitled to have the case exposed by a full inquiry, that the conduct and motives of all parties may be laid open. I do not complain of being visited with the power of the Court of Directors, if sufficient cause for it exists; but I have a right to complain (having had all my acts supported by them) that I alone should be singled out for punishment, when those who by their acknowledged misconduct caused them, are allowed to escape.

I have, &c.

To the Secretary, East India House. (signed) *M. Lewin.*

Sir, 31, Gloucester Gardens, Hyde Park.

In a minute, dated 17th March 1847, addressed to the Honourable Court, Mr. Dickinson remarks in relation to the conciliatory measures proposed by Lord Tweeddale, "With all sincerity, I declare that it would have afforded me gratification to join in the measure proposed by the Most Noble the President, and that the only reason I had for not at once doing so, was set forth in the two documents to which I have referred; viz. the doubt I entertained that the Governor, when he should know how greatly the aspect of matters had changed between the date of his penning his minute, and that on which the question was brought before me by the Secretary, would still wish that the measure proposed by him should be carried out."

In a letter written to me by Mr. Dickinson, dated 10th August 1847, when writing under the fear that he would meet with the disgrace which has fallen on him, in private if not in public, he writes, "I could even show that in the instance in which I was so roughly handled in the 'Spectator' the other day, three days after I had seen Lord Tweeddale's minute, proposing that conciliatory measures should be offered to the Judges, that is, on the 6th August, Lord Tweeddale's minute being dated 28th July, I recorded a minute concurring in the proposed measure. Unfortunately, proceedings were not immediately drafted and issued on these minutes, but the fault lay neither with Lord Tweeddale nor myself.

I will beg the Court of Directors to compare these two versions of Mr. Dickinson's conduct. I will offer no further remark about him, for a man so infamous as Mr. Dickinson has proved himself, is worth none. The wonder is, how so unprincipled a man should find favour with the Court of Directors. I would refer the Court to the remarks of the United Service Gazette of the 23d and 27th July 1847.

I have, &c.

To the Secretary, East India House. (signed) *M. Lewin.*

Sir, 31, Gloucester Gardens, 8 May 1850.

I HAVE the honour to request that you will submit to the Honourable the Court of Directors the grounds upon which I consider myself entitled to ask of the East India Company compensation for the losses I sustained, at the close of my career, as a civil servant of the East India Company. I beg that I may not be misunderstood as asking anything at the hands of the Court of Directors as an act of grace or favour: if the grounds which I set forth for compensation are not of themselves sufficient, the Court of Directors would have no right to recognize them, and I would not condescend to advance them.

At the close of my career in the Civil Service, having held during a period of five years the office of second Judge of the Sudder Court, and for a considerable period that of first Judge (to which I was appointed by Lord Tweeddale), I was removed from the bench, for reasons set forth in a document (miscalled a minute of Council, but having no legal title to be so considered), dated 17th September 1846. To this document I will make no further reference than by stating, that it is utterly unfounded in fact (as I have abundantly shown it to be in my letters addressed to you at several periods, to be laid before the Court of Directors), which I am prepared to prove whenever the opportunity (which I have so often demanded) is afforded to me.

The cause of the rupture with the Sudder Court (which led to my removal from it) was an order addressed to it by the Government, dated 19th May 1846. This order the Court of Directors annulled, and their entire proceedings (in which they condemned the use of the term "heathen") show that whatever opinion they might have entertained of my proceedings, they disapproved of those of the Madras Government. Whatever may have been my conduct, it is impossible to deny that the Court of Directors, who passed final judgment in the case, disapproved of the proceedings of the Madras Government which led to it.

It is not my intention here to justify, as a question of subordination, the conduct I adopted towards the Madras Government; I admit that it was my duty (in relation to my subordinate position), if I found myself obliged to adopt a course adverse to the Government to be respectful towards it, which I was not after my removal. Men on the verge of ruin are not apt to weigh the means of escape.

Having said thus much, I will venture to ask the Court of Directors whether the punishment I have suffered has not exceeded my offence? whether, having done what was right in my office, and risked all in pursuit of the right, a severer punishment has not been inflicted on me than was called for?

Had I been tried and imprisoned as a fraudulent debtor (instead of proving, as I trust I have, to all men acquainted with me and the circumstances, that I acted the part of an honourable man), had I proved myself unworthy to serve the Company in any capacity, had I been refused on that account permission to return to India, could I have been punished more than I have been? The most unprincipled civil servant that ever served the Company could not be more than ruined, as I have been, and from a state of affluence reduced to comparative distress.

Having touched briefly on the immediate cause of my misconduct, I will now refer to another. I will venture to ask the Court of Directors in candour, whether my punishment may not be referred to the incompetence of the party appointed as Governor of Madras? Will they venture to assert, if the person holding the office had been fit for the situation (such as Sir Thomas Munro and Sir Henry Pottinger), that the rupture between the Sudder Court and the Government would have taken place?

I had been five years in the Sudder Court before Mr. Waters and Mr. Boileau were placed in it. Was I ever pronounced unfit for the office? were they ever pronounced fit for it? Were they not appointed by Lord Tweeddale, not because they were fit, but to effect a paltry saving? Was it possible, with such men, that the Sudder Court should go on? It is needless to trouble the Court further. I think I am in justice entitled to be placed in a better position than the man who abandons the Civil Service in disgrace, and who forfeits his title to be continued in his office by a violation of ties which bind every civil servant to the East India Company.

If it can be shown that in a single instance my judicial proceedings were wrong; that the Judges who followed me deviated from the course I thought it my duty to insist upon; that my character has been on this or on any other occasion called in question,—I will not trouble the Court of Directors with any further complaint.

I am very far from saying that I have not been culpable. I assert that what I have done was forced on me by circumstances, and that due allowance has not been made for the proceedings of an individual who was obliged to defend himself against a superior force. But while I admit my own culpability, I assert that the main culpability attaches to the Government, who forced me to do what in other circumstances I should have disapproved.

I have, &c.
(signed) *M. Lewin.*

J. C. Melvill, Esq.
&c. &c. &c.

Appendix, No. 11.

Sir, East India House, 22 May 1850.

I HAVE received and laid before the Court of Directors your letter of the 8th instant, applying for compensation from the East India Company, for the losses you have sustained by your removal from the Sudder Adawlut, and from the appointment of provisional member of Council at Madras.

In reply, I am commanded to inform you that the measures which the Court of Directors were compelled by your own course of conduct to adopt, were the most lenient which the circumstances of the case could admit, and that the Court are unable to entertain your application.

I am, &c.
(signed) *J. C. Melvill.*

M. Lewin, Esq ,
31, Gloucester Gardens, Westbourne Terrace,
Hyde Park.

Sir, 31, Gloucester Gardens, 7 June 1850.

I HAVE the honour to acknowledge your letter of the 22d ultimo, in which you state that the measures objected to in my letter of the 8th, were forced on the Court of Directors by my "own course of conduct," and "were the most lenient that the circumstances of the case could admit of." Lest it should be supposed that I acquiesce in this conclusion, I think it incumbent to remark, that the true circumstances of the case have never been before the Court of Directors. If they had been, I should have felt it my duty to submit, and should have submitted to their judgment, as every subordinate is bound to submit to the judgment of a superior authority.

I have, &c.
(signed) *M. Lewin.*

J. C. Melvill, Esq.,
&c. &c. &c.

31, Gloucester Gardens, Hyde Park,
Sir, 16 May 1851.

I HAVE the honour to request that you will submit my application to the Court of Directors of the East India Company, for a reconsideration of their decision, conveyed in your letter of the 22d May last.

It is no part of my object in this brief address to show that the acts connected with my removal from office were blameless: it is sufficient that they grow out of the errors of the Local Government (virtually acknowledged, and their annulment by the authority of the Court of Directors,) which forced me into a position from which there was no escape, but with the loss of character or emolument. I thank God that I preferred the loss of the latter, and that neither fear nor hope betrayed me into acts of submission, which would have proved me unworthy the high station on the judicial bench from which I was removed.

I had been five years a Judge of the highest court in the country, when Mr. Waters and Mr. Boileau were appointed my colleagues, not because of their ability for the duty, but because, as stated by the Local Government, a saving could be effected by their elevation. The result of the measure was to create anarchy in the Sudder Court, while the retirement of Lord Tweeddale to the Neilgherries (where he retained but in part the reins of Government) created anarchy at the Presidency.

If it were possible to deny that the evils of which I complain were attributable to the causes I have mentioned, I should consider myself without a title to ask anything of the East India Company; if I were unable to show that the errors laid to my charge resulted from the errors of the Government, I should consider myself without excuse.

Is it just, I would venture to ask, to require of the subordinate only that he shall be blameless? Can it, in reason, be expected of him, when threatened in his reputation, and with the ruin of his fortunes, that he should preserve the equanimity and forbearance which would befit a perfect state of calm and quietude?

Whatever view the Court may take of this application, I would certainly not make it unless I could do so with a conscientious belief that it is founded on right and justice. While I am not blind to the points open to exception, I will venture to assert, that the credit of having prevented a great deal of cruelty and injustice, of having rescued numbers from unjust punishment, cannot be denied to me.

I was holding the office of Judge, in which there is no halting between two opinions; and it may be fairly asked whether an error committed in the anxiety to uphold the independence of an office I was sworn to execute without distinction of person or authority, calls for a punishment which places me on a level with men who were removed from the service stained with crime and judicial punishment.

I was virtually dismissed the service; for though it is certainly true I would have starved, with my whole family, rather than have voluntarily taken up a lower position, I was not even offered an inferior office, as happened to my colleagues, who were removed with me, on terms more disparaging than those of my own removal: was I less fit for office than they?

I have, &c.
(signed) *M. Lewin.*

To the Secretary to the Court of Directors
of the East India Company.

Appendix, No. 11.

Sir, East India House, 24 May 1851.

I HAVE received, and laid before the Court of Directors, your letter, dated the 16th instant, soliciting a reconsideration of the decision communicated to you in my letter of the 22d May 1850, with regard to your application to be compensated for the losses you sustained by your removal from the Sudder Adawlut, and from the appointment of provisional member of Council at Madras.

In reply, I am commanded to inform you, that the question to which your letter refers has been finally disposed of, and that the Court of Directors see no reason for re-opening it.

I am, &c.
(signed) *James C. Melvill,*
Secretary.

Malcolm Lewin, Esq.,
31, Gloucester-gardens, Westbourne-terrace,
Hyde Park.

Sir, 31, Gloucester-gardens, 26 May 1851.

I HAVE had the honour to receive your letter of the 24th May, and request you will place the following brief remarks before the Court of Directors.

The claim preferred by me rests on an equitable basis (the only basis on which I would make it), and is not unprecedented.

On the occasion of Mr. Baber's removal from the office of first judge of the Provincial Court of Malabar and Canara, during the government of Mr. Lushington, the Court of Directors awarded to that gentleman, in the year 1832 I think, the salary he would have received had he remained in employ during the interval of his removal and retirement from India.

Mr. Baber's conduct was not approved by the Court of Directors; the acts of the Government, connected with his removal, were not cancelled by the authority of the Court of Directors; nor was the Government rebuked; but it was thought that the penalties entailed by the removal justified a pecuniary award.

In my own case, my judicial proceedings were upheld, and have never since been questioned; the Judges who followed me passed sentence in accordance with my views; the orders of the Government, which led to the controversy between the Sudder Court and the Government, and, in the sequel, to my removal, were cancelled by the authority of the Court of Directors; the Government were reproved for stigmatising the people of the country as "heathens," and directed to refrain for the future from interference with the ordinary course of justice.

I believe I am not wrong in supposing that my removal from the Sudder Court was confirmed by the Court of Directors, not because of any acts done before my removal, but in consequence of what took place after it.

I will offer but one more remark, appealing to the candour of the Court of Directors, whether, having upheld the justice of the highest Court in the country, assailed as it was by the Government, and the first Judge, Mr. Waters; whether having been thrown by the aggression of others into a situation of extreme difficulty, that difficulty being solely and entirely attribuable to the acknowledged errors of the Government, it is just, that the only party whose acts were correct should be visited with the penalty of virtual dismissal, after a career of 35 years' service, in which my official conduct received as large a measure of approbation from the Local Government and the Court of Directors, as fell to the lot of any servant subject to their authority.

I have, &c.
(signed) *M. Lewin.*

To the Secretary to the
Honourable East India Company.

Sir. Gloucester Gardens, 12 February 1852.

I HAVE the honour to request, that you will lay my application before the Court of Directors of the East India Company, for compensation for losses occasioned by my illegal removal from the office of Judge of the Sudder Court at Madras.

If it could not be distinctly shown that my removal resulted from causes beyond my own control, and within the control of the Court of Directors, I should consider myself without a title to make this application.

No one, I believe, ventures to deny that the Marquess of Tweeddale was unequal to the task of Government; it is as certain that my removal originated in part owing to two incompetent colleagues, who were appointed by him to effect a paltry saving, and in part owing to orders addressed by his Lordship to the Sudder Court, which orders were annulled (on account of their impropriety) by the Court of Directors.

My judicial proceedings, from first to last, have been affirmed as correct, and I alone, of all the parties concerned, have had no sentence of disqualification passed on me. My colleague, Mr. Boileau, was removed on the plea of want of independence, because, when threatened by the Local Government, he yielded (when I resisted), under a very natural fear, that by a contrary course he would bring ruin upon himself and his family. I will not refer particularly to the cause of my other colleague's removal, a less creditable one; both of these gentlemen, however, found it convenient to accept an inferior office under the Government which removed them.

The

The case of the latter gentleman involved signal injustice and depravity; after doing all the dirty work of the Government, a scape-goat was wanted, and he supplied one.

At the time of my removal, Lord Tweeddale was passing his time on the Neilgherry Hills, and was by law divested of the power which compassed my removal. He was, however, far enough off to be the tool of men worse, if not more stupid, than himself, at Madras.

The Court of Directors, on political grounds, may have been justified in depriving me of a seat in Council, which, considering how it is sometimes occupied (take Mr. Dickinson as an example), confers little honour on any one; but I never heard of a Judge being deprived of his seat for refusing to be unjust. Had I allowed all the poor "heathens" (so called by Lord Tweeddale) whom Mr. Waters had illegally condemned to be punished, nothing adverse could have happened to me, and I should have proved myself as pious as the party opposed to me; but because I arrested the course of injustice, and saved, I believe, a hundred persons, who were to be sacrificed (for the sake of the Gospel!) from unjust punishment, a victim must needs be had, to appease the wrath of Lord Tweeddale; a man who, contemptible as he was as a Governor, was better in all respects than the sycophants who led him to do what I am persuaded, if he had had intellect enough to understand the question, he would have revolted at.

I have, &c.
(signed) *M. Lewin.*

To the Secretary, East India House,
&c. &c. &c.

Sir, East India House, 24 February 1852.

I have received, and laid before the Court of Directors your letter, dated the 12th instant, and in reply, I am commanded to refer you to my letter, dated the 24th May last.

I am, &c.
(signed) *J. C. Melvill,*
Secretary.

Malcolm Lewin, Esquire,
31, Gloucester Gardens, Hyde Park.

(True Copies.)

T. L. Peacock,
Examiner of India Correspondence.